

Chapter 210

ZONING

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[HISTORY: Adopted by the Board of Trustees of the Village of Alden 6-27-1994 as L.L. No. 1-1994. Amended in its entirety 2-13-2003 by L.L. No. 21-2003. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention -- See Ch. 78.

Flood damage prevention -- See Ch. 105.

Licenses and permits -- See Ch. 125.

Mobile home parks -- See Ch. 131.

Stormwater management – erosion & sediment control --See Ch. 175.

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Subdivision of land -- See Ch. 181.

Fees -- See Ch. A220.

ARTICLE I
General Provisions

§ 210-1. Title.

This chapter and the corresponding rules and regulations shall be known and may be cited as "Chapter 210, Zoning, of the Code of the Village of Alden, Erie County, New York."

§ 210-2. Intent.

The purpose of this chapter, together with the corresponding rules and regulations, and the intent of the legislative authority in its adoption is to promote and protect to the fullest extent permissible the environment of the village and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating the bulk, height, design, lot coverage and location of structures; by regulating and limiting population density; and, for the aforesaid purposes, to divide the land within the limits of the village into districts of such number and dimensions in accordance with the objectives of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Chapter.

§ 210-3. Conflict with other provisions.

The provisions of this chapter shall not annul or in any way interfere with existing deed or plat restrictions, easements or other agreements between persons, codes, laws, rules, regulations or permits previously adopted or issued, except those ordinances or sections thereof which are contrary to and in conflict with this chapter.

§ 210-4. Greater restrictions to prevail.

Wherever this chapter imposes greater restrictions upon the use of structures or land, the height or bulk of buildings or requires larger land or building areas, yards or other open spaces than are otherwise required or imposed by deed or plat restrictions or laws, this chapter shall control; and conversely, other regulations shall control where they impose greater restrictions than this chapter; and for that purpose, it shall not annul, modify or impair the provisions of any existing deed or plat restrictions, easements or other agreements.

§ 210-5. Interpretation.

In interpreting and applying the provisions of this chapter, its provisions shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare and to accomplish the intent thereof. Except as specifically provided herein, it is not intended by the adoption of this chapter to repeal, abrogate or annul any existing provision of any law previously adopted relating to the use of structures and land and the design, erection, alteration or maintenance of structures thereon. Titles and headings have been inserted for convenience of reference and are not intended to define or limit the scope of or otherwise affect any provision in this chapter.

§ 210-6. Severability.

If a court of competent jurisdiction finds any provision of this chapter or the corresponding rules and regulations invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of this chapter and the corresponding rules and regulations shall continue to be separately and fully effective.

§ 210-7. Applicability.

If a court of competent jurisdiction finds the application of any provision of this chapter or the corresponding rules and regulations to any building, other structure or tract of land to be invalid, in whole or in part, the effect of such decision shall be limited to the person, property or situation involved in the controversy, and the application of any such provision of any other person, property or situation shall not be affected.

ARTICLE II Terminology

§ 210-8. Rules of construction.

The following rules of construction of language shall apply to the text of this chapter:

- A. Words used in the present tense include future tense.
- B. Words used in the singular include the plural, and words used in the plural include the singular.

- C. The word "lot" includes the word "plat" or "parcel."
- D. The word "person" includes an individual, firm or corporation.
- E. The word "shall" is always mandatory.
- F. The word "may" is permissive.
- G. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- H. Any reference to an "R District" shall be interpreted to mean any district with the prefix letter "R."
- I. A "building" or "structure" includes any part thereof.
- J. Any reference to a "C District" shall be interpreted to mean any district with the prefix letter "C."
- K. Any reference to an "I District" shall be interpreted to mean any district with the prefix letter "I."
- L. "And" indicates that all connected items, conditions, provisions or events shall apply.
- M. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- N. "Either...or" indicates that the connected items, conditions, provisions or events may apply singly but not in any combination.

§ 210-9. Word usage; definitions.

- A. Word usage. The word "shall" is mandatory; the word "may" is permissive; "should" is to be interpreted as expressing that which is desired and essential.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE -- A subordinate structure located on the same lot with the principal structure occupied by or devoted to an accessory use. When an

"accessory structure" is attached to the principal structure in a substantial manner, as by a roof, such "accessory structure" shall be considered part of the principal structure.

ACCESSORY USE -- A use which is incidental and subordinate to the principal use of the property, located on the same lot therewith.

ALTERATIONS -- As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AREA VARIANCE -- The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

ARTERIAL STREET -- Provides for the through traffic movement between areas and across the village and direct access to abutting property; subject to necessary control of entrances, exits and curb use.

BASEMENT -- That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

BED-AND-BREAKFAST HOMES -- The furnishing of meals and/or living accommodations for five (5) or more persons on a daily basis for compensation.

BOARDINGHOUSE or ROOMING HOUSE -- The furnishing of meals and/or living accommodations for five (5) or more persons on a weekly or longer time basis for compensation.

BUFFER -- A strip of land required to separate different land uses from each other in order to:

- (1) Eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs and unsightly buildings or parking areas; or
- (2) Provide spacing to reduce adverse impacts of noise, odor or danger from fires or explosions.

BUILDABLE AREA -- That portion of the lot remaining after required yards have been provided.

BUILDING -- Any improvement having a roof supported by columns or walls for the housing or enclosure of persons, animals or property.

BUILDING AREA -- The maximum horizontal projected area measured from the exterior of the walls of the building and its accessory building(s).

BUILDING, DETACHED -- A building surrounded by open space on the same lot.

BUILDING HEIGHT -- See "height".

BUILDING INSPECTOR -- The Building Inspector of the Village of Alden, New York.

BUILDING, PRINCIPAL -- A building in which the main or principal use of the lot is conducted.

BUILDING (SETBACK) LINE -- A line parallel to the street line, between which line and the street line no structure may be built.

CERTIFICATE OF OCCUPANCY -- As defined in Chapter 78 of this Code.

CLERK -- The Village Clerk of Alden, New York.

CLUB (PRIVATE) -- A not-for-profit organization, not including a fraternity or sorority house, whose premises are restricted to its members and their guests.

COLLECTOR STREET -- Provides for traffic movement between major arterials and local streets and direct access to abutting property.

CONDOMINIUM -- A combination of ownership in a building or structure, together with an interest in common facilities, as governed by the terms of the Real Property Law of the State of New York.

COOPERATIVE APARTMENTS -- Group ownership of multi-unit property, where title to the entire property is held by a corporation.

COUNTY -- Erie County, New York.

COURT, INNER -- An unroofed, open space enclosed by four (4) outer walls.

COURT, OUTER -- The same as an inner court, but with one (1) side open to a yard.

DEVELOPMENT AREA -- An area of land permitted by this chapter to be developed by a single owner or group of owners, acting jointly, which may consist of a parcel or assembled parcels planned and developed as an entity.

DWELLING -- A building or portion thereof designed or occupied exclusively for residential and permitted accessory uses.

DWELLING GROUP -- A group of two (2) or more dwellings located on the same lot and having any yard or open space in common.

DWELLING UNIT -- A room or group of rooms within a building forming a single habitable unit which may be occupied by a single family for living, sleeping, cooking and eating purposes. A dwelling unit may be attached or detached.

ENGINEER -- The Village Engineer of Alden, New York.

EXPRESSWAY -- A divided arterial highway for through traffic to which access from the abutting properties is prohibited and all street crossings are made by grade-separated intersections.

FAMILY -- Any number of individuals related by blood, marriage or adoption or individuals who are not so related, living together as a single housekeeping unit.

FARM -- A single parcel of land five (5) acres or more in size on which an owner or tenant carries on agricultural or dairying pursuits or the raising of livestock or poultry or the keeping of bees.

FENCE -- Any barrier enclosing or bordering a field, yard or piece of property which is used to prevent entrance or egress, to confine or to mark a boundary.

FLAMMABLE LIQUIDS -- Liquids having a flash point below two hundred degrees Fahrenheit (200° F), closed cup tester. Class 1 flammable liquids (e.g., gasoline, ether, liquid petroleum gas) are those having a flash point below twenty-five degrees Fahrenheit (25° F). Class 2 flammable liquids (e.g., alcohol, ethyl or methyl acetate) are those having a flash point below seventy degrees Fahrenheit (70° F) but not below twenty-five degrees Fahrenheit (25° F).

FLOOR AREA -- The total horizontal area of a building as outlined by its exterior main walls, not including built-in or attached garages, basements, crawl spaces, porches or terraces.

FRATERNITY OR SORORITY HOUSE -- A dwelling maintained exclusively for members of the fraternity or sorority enrolled in an academic college, university or other educational institution.

FRONT LOT LINE -- The line established at the edge of the front right-of-way of a property, or the front edge of the property line where it does not immediately adjoin a right-of-way. In the case of corner lots, the street of the street address in the tax rolls will be used as the right-of-way or the edge of the property line for determining this front lot line.

GARAGE, PRIVATE -- An enclosed structure accessory to a principal building for the purpose of storing motor vehicles and/or items incidental to the main building.

GARAGE, REPAIR -- A main or accessory building used or designed for repair purposes; a service garage, if accessory to an automobile salesroom.

GARAGE, STORAGE -- A main or accessory enclosed building with doors, other than a private garage, used for parking or temporary storage.

GASOLINE SERVICE STATION:

- (1) A place, other than a collision shop or dismantler, where gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail and where, in addition, the following services may be rendered and sales made:
 - (a) Sales and servicing of spark plugs, batteries and distributors and distributor parts.
 - (b) Tire servicing and repair, but not recapping or regrooving.
 - (c) Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like.
 - (d) Radiator cleaning and flushing.
 - (e) Washing and polishing and the sale of automotive washing and polishing materials.
 - (f) Greasing and lubrication.

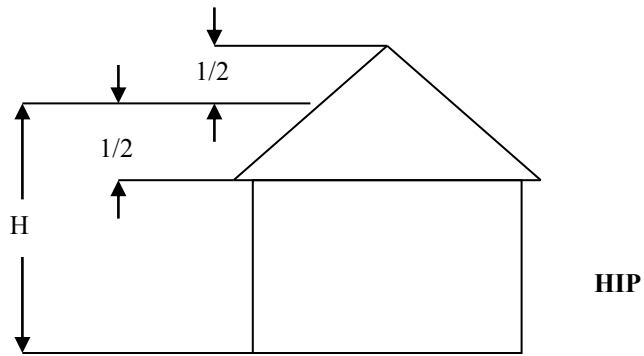
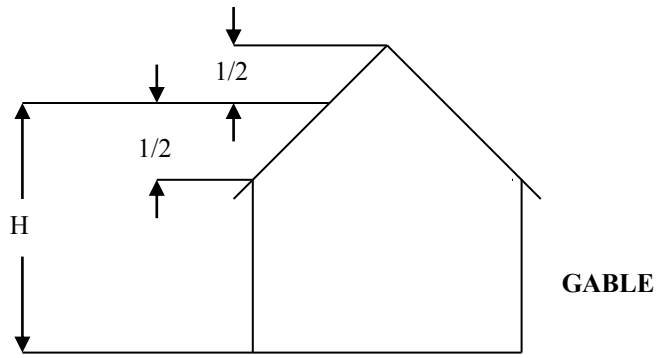
- (g) Providing and repairing of pumps and lines.
 - (h) Minor servicing and repair of carburetors.
 - (i) Wiring repairs.
 - (j) Adjusting and repairing brakes.
 - (k) Minor motor adjustments.
 - (l) Sale of beverages, packaged foods, tobacco and similar convenience goods.
 - (m) Provision of road maps and other informational material to customers; provision of rest room facilities.
 - (n) Trailer rental.
- (2) Uses permissible at a service station do not include rental of motor vehicles, major mechanical and body work, straightening of body parts, painting, welding or storage of automobiles not in operating condition. A service station is not a repair garage nor a body shop.

GRADE, FINISHED -- The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs related thereto.

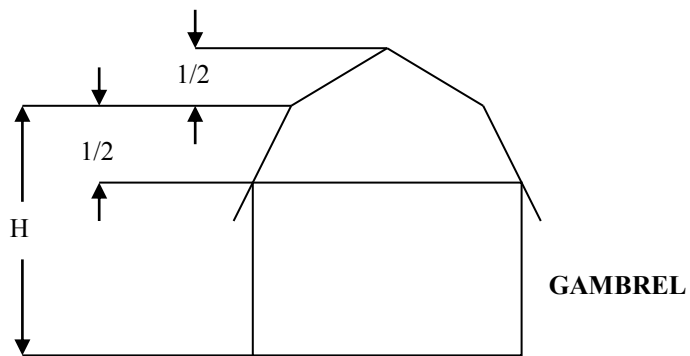
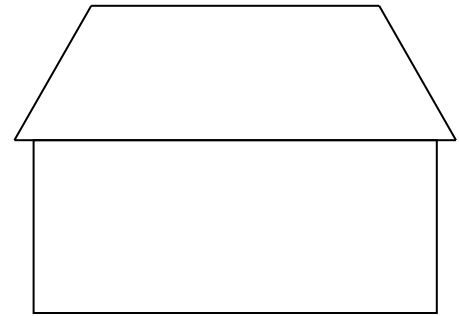
GROUND-FLOOR AREA -- The maximum horizontal area of a building at the ground level, excluding open porches, terraces and steps and attached or built-in garage areas.

GROUP DEVELOPMENT -- Two or more structures containing attached dwelling units. Structures need not be on individual lots.

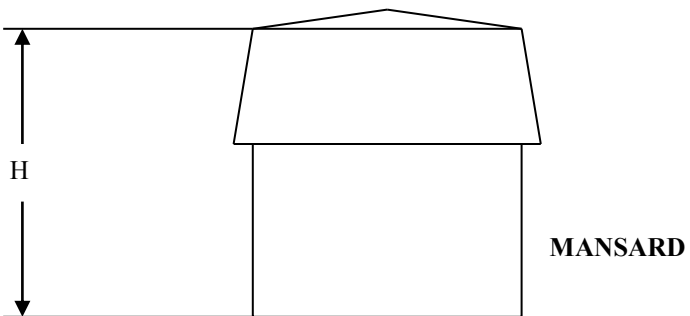
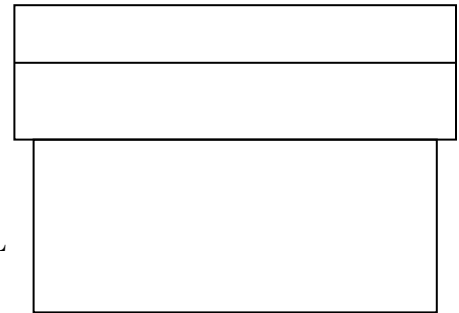
HEIGHT, BUILDING -- The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. See illustration below.



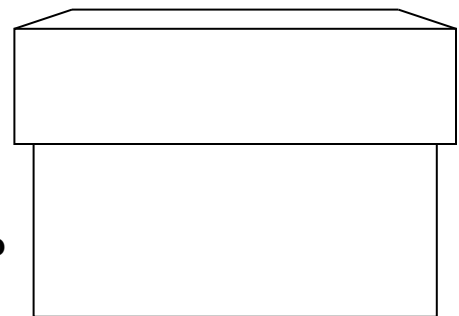
HIP



GAMBREL



MANSARD



HOME OCCUPATION -- An accessory use of a dwelling unit or accessory structure for gainful employment involving the manufacture, provision or sale of goods and/or services.

HOTEL or LODGING HOUSE -- A building containing sleeping rooms for five (5) or more persons, which rooms are available to the public for less than one (1) week at a time for compensation, with no cooking or dining facilities except a general kitchen and public dining room.

JUNKYARD -- As defined in Chapter 120 of this Code. **[Amended 5-18-2006 by L.L. No. 13-2006]**

KENNEL -- Any premises on which four (4) or more dogs more than six (6) months old are kept.

LAW, ORDINANCE, RULE or REGULATION -- Pertains to the federal, state, county and village governments, as appropriate.

LOCAL STREET -- Provides for direct access to abutting land and for local traffic movements.

LOT -- A parcel of land for a structure, use and the accessory structures or uses customarily incidental to it, including such open spaces as are required by this chapter and such open spaces as are arranged and designed to be used in connection with such structure.

LOT, CORNER -- A lot at the junction of and fronting on two (2) or more intersecting streets.

LOT COVERAGE -- The percentage of the lot covered by the main and accessory structures.

LOT DEPTH -- The mean horizontal distance between the front and rear lot lines.

LOT, INTERIOR -- A lot other than a corner lot.

LOT LINE -- Any boundary line of a lot.

LOT, THROUGH -- An interior lot having frontage on two (2) parallel or approximately parallel streets.

LOT WIDTH -- The distance between the side lot lines measured along the required front building (setback) line. If the side property lines are parallel, the

shortest distance between these side lines; or if the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the district in which the lot is located. The axis of a lot shall be a line joining the midpoints of the front and rear property lines.

LOT OF RECORD -- Land designated as a separate parcel on a plat map or deed filed or recorded in the office of the Clerk of Erie County, New York.

MANUFACTURED HOME -- A factory-manufactured home incorporating structures or components designed for residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a building site.

MOBILE HOME -- As defined in Chapter 131 of this Code.

MOBILE HOME PARK -- As defined in Chapter 131 of this Code.

MODULAR HOME -- See "manufactured home."

MOTEL -- A series of attached, semidetached or detached (one or more stories) dwelling units containing a bedroom, bathroom and closet space, where each unit has convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients, and no cooking facilities are provided, and the site of the motel has direct and convenient access to the main traveled road.

MULTIFAMILY DWELLING -- A building or portion thereof containing three (3) or more dwelling units and designed or used for occupancy by three (3) or more families living independently of each other.

NONCONFORMING USE -- A building, structure or use of land existing at the time of enactment of this local law, and which does not conform to the regulations of the district or zone in which it is situated, either on the effective date of this local law or as a result of subsequent amendments hereto.

OPEN SPACE -- An area unobstructed by buildings from the ground upward, except for walks, paths, landscaping or other site features in public, common or other private ownership. Yards of individual lots occupied by dwellings shall not constitute open space.

OPEN SPACE, COMMON -- A parcel or parcels of land or an area of water or a combination of land and water within the site, privately owned and designed and intended for the use and enjoyment of two (2) or more households residing on the site or in specified portions thereof or other users, if permitted by the owners of the common open space. Common open space may contain such structures and improvements as are necessary and appropriate for the benefit and enjoyment of persons served by such common open space.

OVERLAY DISTRICT -- A district classification superimposed in addition to another (basic) district classification, further regulating or limiting structures and uses otherwise permitted and regulated pursuant to the basic district classification.

OWNER -- Includes, in addition to its usual meaning, tenant, lessee, occupant or other user.

PATIO HOME – A detached single-family home that is a single story measuring Between 1,200 square feet and 2,400 square feet in gross area (not to include garages, breezeways or enclosed patios). Each home shall have two or three bedrooms and must be located on a lot that is in common ownership of other patio homes on the same parcel of land. A patio home must maintain a minimum front yard setback of 20 feet measured from the front of the structure to the edge of the street or access drive pavement, a minimum rear yard setback of 10 feet, and a minimum side yard setback of 7 feet.

PERSON -- Includes a firm, association, organization, partnership, company or corporation, as well as an individual.

PLANNING BOARD -- The Planning Board of the Village of Alden, New York.

RESIDENT PROFESSIONAL -- A health care professional, attorney, engineer, architect, community planner, landscape architect, land surveyor, accountant, insurance agent or broker, realtor, teacher and photographer only.

SELF-STORAGE FACILITY -- A public facility for dead storage of personal, household or business property which is serviced by the owner of the stored property or an agent of the owner. The term "self-storage facility" includes all similar uses and terms but shall not be construed to mean warehouse.

SETBACK -- The least horizontal distance from any building to the nearest street or highway right-of-way.

SIGN, BUSINESS -- A sign which directs attention to a business, profession or industry conducted upon the premises or to a commodity or service sold or offered

by such business, profession or industry upon the premises where such sign is located.

SIGN, DIRECTIONAL -- A sign that directs attention to the location of a local service or places of business.

SIGN, FREESTANDING -- A sign or sign support structure that is not attached to or part of a building or structure.

SIGN, GROUND -- A sign supported by a pole, uprights or braces which are placed in or on the ground.

SIGN, ILLUMINATED -- A sign lighted by electricity, gas or other artificial light, including reflective or phosphorescent light, paint or tape.

SIGN, OUTDOOR ADVERTISING -- A sign which directs attention to a business, profession or industry conducted or a commodity or service sold or offered on a site other than upon the premises where such sign is located.

SIGN, PORTABLE OR MOBILE -- A sign that is designed and intended to be transported from place to place and is not permanently affixed to the ground or to a building or structure. Portable signs may or may not have wheels.

SIGN, TEMPORARY -- A sign which is intended to advertise community or civic projects, real estate for sale or lease or other special events on a temporary basis.

STORY -- The portion of a building between the surface of a floor and the next floor above or the ceilings next above under a roof, with an area greater than one hundred fifty (150) square feet.

STREET -- A public or private way which permits conducting of vehicular travel and/or affords a primary means of access by vehicles and pedestrians to abutting properties, including the entire area within the right-of-way. The term includes those ways as shown on plats filed in the office of the Erie County Clerk, whether improved or not.

STREET GRADE -- The elevation of the street as measured at its crown.

STREET LINE -- A common property line separating a public street or right-of-way from abutting properties.

STRUCTURAL ALTERATION -- Any change in the supporting members of a building or other structure, such as bearing walls, columns, beams or girders.

STRUCTURE -- A building or anything other than a fence constructed or erected which requires permanent location in or on the ground or attachment to something having such location.

SWIMMING POOL -- Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

TWO-FAMILY DWELLING -- A building designed for or occupied exclusively by two (2) families living independently of each other.

USE -- The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

USED or OCCUPIED -- Includes the words "intended, designed or arranged to be used or occupied."

USE VARIANCE -- The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VILLAGE -- The Village of Alden, Erie County, New York.

WAREHOUSE -- The building, shed or structure or any part of the same for the storage of goods, merchandise, scrap materials, stock or other items.

YARD -- An open space on the same lot with the building unoccupied and unobstructed by any portion of the building from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT -- An open space on the same lot with a principal building, extending the full width of the lot between the street line and the principal building.

YARD, REAR -- An open space on the same lot with a principal building, extending the full width of the lot between the rear lot line and the rear line of the building.

YARD, REQUIRED -- The minimum yard required between a lot line and building line or line of any parking, loading and stacking area or any other use requiring a yard in order to comply with the regulations of the district or zone in which the lot is located. A required yard shall be open and unobstructed from the

ground upward, except for projections on buildings as permitted in this Chapter and except for walks, landscaping and other yard or site features.

YARD, SIDE -- An open space extending from the front yard to the rear yard and of a width established by this chapter; the width shall be measured at right angles to its side lot line.

ZONING BOARD OF APPEALS -- The Zoning Board of Appeals of the Village of Alden, New York.

§ 210-10. Interpretation of language.

When a question of language arises, the Zoning Board of Appeals shall interpret this chapter. Any interpretation or order, requirement, decision or determination in connection with this chapter shall be final except as otherwise provided by law.

§ 210-11. Records and reports.

The village shall keep or cause to be kept a record suitably indexed in regard to any decision or determination reached in connection with the interpretation or enforcement of this chapter.

ARTICLE III
Establishment of Districts

§ 210-12. Establishment of districts.

In order to carry out the purpose, intent and objectives of this chapter, the village is hereby divided into the following districts, which shall be designated on the Official Zoning Map¹ by symbols and boundaries, said districts to be known as:

R-O -- Residential/Open Space
R-1 -- Single-Family Residential
R-2 -- Two-Family Residential
R-C -- Residential Commercial
B-1 -- Business
C-1 -- Commercial
C-2 -- Commercial/Light Industrial
I-1 -- Industrial

§ 210-13. Official Zoning Map.

The aforesaid districts are designated by symbols, and the location and boundaries of said districts are shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this chapter.² If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map after the amendment has been adopted by the Village Board.

¹ Editor's Note: The Official Zoning Map is on file in the village offices.

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ARTICLE IV
District Regulations

§ 210-14. General applications.

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land therein and except as otherwise provided in this chapter or in any accompanying rules and regulations.

- A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except as permitted in the district and in conformity with all of the regulations herein specified.
- B. No building or other structure shall hereafter be erected or altered which exceeds the height or bulk; accommodates or houses a greater number of families or occupies a greater part of the lot area; or has narrower or smaller rear yards, front yards, side yards or other open spaces than therein permitted or required.
- C. No part of a yard or other open space or off-street parking, loading or stacking space required about or in connection with any structure for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking, loading or stacking space required for any other structure.
- D. No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter. No required yard area shall be separated in ownership from that portion of the lot on which a structure is located.
- E. Interpretation of permitted uses.
 - (1) If any use could be construed to be incorporated within a general use listing, the more restrictive listing, if any, shall control.
 - (2) No use shall be permitted in any zoning district unless set forth in a list of permitted uses for such zoning district.
- F. Public use exemptions.
 - (1) The regulations of this chapter shall not be so construed as to limit or interfere with the dedication, development or use of any land or building

for public parks, public playgrounds or public schools required for compulsory education; or with the use of land or buildings zoned by the United States government, the State of New York, the County of Erie, the Town of Alden or the Village of Alden for governmental purposes; or with the construction, installation, operation and maintenance for public utility purposes of water or gas pipes, mains or conduits, electric power transmission lines, telephone or telegraph lines, oil pipe lines or sewers; or with any highway, railroad right-of-way existing or hereafter authorized by the State of New York, the County of Erie or the Village of Alden.

- (2) These exceptions, however, shall not be interpreted to permit yards, garages or other buildings for service or storage by said public utilities which are not otherwise permitted by this chapter in appropriate districts.

§ 210-15. Interpretation of district boundaries.

- A. Where uncertainty exists as to boundaries of districts, the following rules shall apply:
 - (1) Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.
 - (2) Boundaries indicated as approximately following existing lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following village boundaries shall be construed as following such boundaries.
 - (4) Boundaries indicated as following railroad lines shall be construed to follow a line midway between the main tracks.
 - (5) Boundaries indicated as approximately following the edge of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the center lines thereof.
 - (6) Boundaries indicated as parallel to or extensions of features indicated in Subsection A(1) through (5) above shall be construed pursuant to those provisions.

- B. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map,³ or in other circumstances not covered above, the Board of Appeals shall interpret the district boundaries.
- C. Where a lot is divided by any zoning district boundary so as to be in more than one zoning district and where such lot was an existing lot when such district boundary was established, a nonconforming use occupying 50% or more of the rear of such lot and having street frontage in the district where permitted may be extended on such lot no more than 25 feet, measured at right angles to the district boundary, into any district where such use is not permitted, subject to applicable required open space provisions relating to such use.

§ 210-16. Residential/Open Space District (R-O).

The following regulations shall apply in the Residential/Open Space District:

- A. Permitted principal uses.
 - (1) Agricultural, floriculture and horticultural pursuits, including but not limited to general farms, greenhouses, plant nurseries, truck gardens, dairies and the raising of bees, poultry and livestock, together with all customary buildings and other structures necessary for the production and storage of the products of such pursuits, subject to the following:
 - (a) Buildings or structures used for the stabling of livestock (including but not limited to horses, cows, sheep, fowl or other animals) shall be located at least one hundred (100) feet from any street line.
 - (b) Fences enclosing any pen, corral, track or other such enclosure within which livestock are kept shall be a minimum of one hundred (100) feet from any street line.
 - (c) Minimum land area for horses shall be forty thousand (40,000) square feet per horse.
 - (2) Kennels, provided that pens and runways for animals shall be at least one hundred (100) feet from any adjoining lot line and a minimum of one hundred fifty (150) feet from any street line.
 - (3) Single-family dwellings.

³ Editor's Note: The Official Zoning Map is on file in the village offices.

- (4) Church or similar place of worship, parish house, convent, rectory or parsonage.
- (5) Private, nonprofit elementary or secondary school accredited by the New York State Department of Education.
- (6) Forest farming.
- (7) Private wildlife reservation or conservation projects, including the usual buildings therefor.
- (8) Veterinarian.
- (9) Cemeteries.
- (10) By special permit of the Board of Trustees (See § 210-28 for regulations):
 - (a) Gun clubs.
 - (b) Golf driving range.
 - (c) Public, private and municipal golf course catering exclusively to members and their guests, provided that any building thereon shall be at least one hundred (100) feet from any lot line and no commercial activity shall be conducted except for an accessory swimming pool, pro shop, tennis court or an accessory dining room with or without bar facilities.
- (11) Any other use by special permit of the Board of Trustees (See § 210-28 for regulations).

B. Permitted accessory uses.

- (1) As permitted and regulated in R-1 Districts.
- (2) Seasonal roadside stands for the sale of farm products produced on the premises.

C. Lots: minimum requirements.

- (1) Area: twenty thousand (20,000) square feet.
- (2) Width: one hundred (100) feet.

D. Yard: minimum requirements.

- (1) Front: thirty (30) feet from edge of right-of-way.
- (2) Side.
 - (a) Ten (10) feet for each one-and-one-half-story dwelling.
 - (b) Fifteen (15) feet for a two-story dwelling.
 - (c) Twenty (20) feet each for any other main building.
- (3) Rear: equal to twenty-five percent (25%) of lot depth, but need not exceed fifty (50) feet.

E. Buildings.

- (1) Maximum height.
 - (a) Two (2) stories, not to exceed forty (40) feet for main buildings.
 - (b) One (1) story, not to exceed fifteen (15) feet for accessory buildings, except that there shall be no maximum height for nonresidential farm buildings.
- (2) Minimum floor area of dwelling, not to include garages, breezeways or enclosed patios.
 - (a) One thousand four hundred (1,400) square feet at ground floor level for a one- or one-and-one-half-story dwelling.
 - (b) One thousand five hundred (1,500) square feet total for a two-story dwelling.

F. Signs: see Article V, Signs.

G. Parking: see § 210-27.

§ 210-17. Single-Family Residential District (R-1).

The following regulations shall apply in the Single-Family Residential District:

A. Permitted principal uses.

- (1) Single-family dwellings.
- (2) Church or similar place of worship, parish house, convent, rectory or parsonage.
- (3) Private, nonprofit elementary or secondary school accredited by the New York State Department of Education.
- (4) By special permit of the Board of Trustees (See § 210-28 for regulations):

(a) Patio Homes

B. Permitted accessory uses.

- (1) Quarters for servants employed on premises.
- (2) Buildings for private horticultural purposes.
- (3) Private garages, off-street parking.
- (4) Private family swimming pools.
- (5) Storage of recreational or utility trailers or boats.
- (6) A home occupation, provided a permit is secured therefor. This shall not include retail sales on the premises. See § 210-29 for regulations.

C. Lots: minimum requirements.

- (1) Area.
 - (a) Fifteen thousand (15,000) square feet for an interior lot.
 - (b) Sixteen thousand five hundred (16,500) square feet for a corner lot.
- (2) Width.

- (a) One hundred (100) feet and one hundred fifty (150) feet deep for an interior lot.
 - (b) One hundred ten (110) feet and one hundred fifty feet (150) feet deep for a corner lot.
- D. Yards: minimum requirements. See § 210-27 for exceptions.
 - (1) Front: thirty (30) feet from edge of right-of-way.
 - (a) Six (6) feet each for a one- or one-and-one-half-story dwelling.
 - (b) Eight (8) feet each for a two-story dwelling.
 - (c) Ten (10) feet each for any other main building.
 - (2) Rear: equal to twenty-five percent (25%) of lot depth, but need not exceed fifty (50) feet.
- E. Buildings. See § 210-27 for exceptions.
 - (1) Maximum height.
 - (a) Two (2) stories, not to exceed thirty (30) feet for main buildings.
 - (b) One story, not to exceed fifteen (15) feet for accessory buildings.
 - (2) Minimum floor area of dwelling, not to include garages, breezeways or enclosed patios.
 - (a) One thousand four hundred (1,400) square feet at ground floor level for a one- or one-and-one-half-story dwelling.
 - (b) One thousand five hundred (1,500) square feet total for a two-story dwelling.
- F. Signs: see Article V, Signs.
- G. Parking: see § 210-27.

§ 210-18. Two-Family Residential District (R-2).

The following regulations shall apply in the Two-Family Residential District:

A. Permitted principal uses.

- (1) As permitted and regulated in R-1 Districts.
- (2) Two-family dwellings.
- (3) Keeping of not more than four (4) roomers, boarders or tourists, provided that the keeping thereof is incidental and accessory to the principal use of the house as a home by the family of the occupant.
- (4) When approved by the Board of Trustees:
 - (a) The keeping of more than four (4) roomers, boarders or tourists, provided that the same is incidental to the use and occupancy of the premises as a home for the occupant thereof and consent or a permit therefor is obtained as provided in any other provisions of laws, ordinances or regulations of the village or other municipality, and provided that the building and the premises otherwise comply with the provisions of this chapter pertaining to the district in which said premises is situated.
 - (b) Dwelling groups, provided that open spaces are not less than would result from conventional lot development.

B. Permitted accessory uses.

- (1) As permitted and regulated in R-1 Districts.

C. Lots: minimum requirements.

- (1) Area.
 - (a) Fifteen thousand (15,000) square feet for an interior lot, single family dwelling.

- (b) Sixteen thousand five hundred (16,500) square feet for an interior lot, two-family dwelling.
 - (c) Sixteen thousand five hundred (16,500) square feet for a corner lot, single-family dwelling.
 - (d) Eighteen thousand (18,000) square feet for a corner lot, two-family dwelling.
- (2) Width.
 - (a) One hundred (100) feet and one hundred fifty (150) feet deep for an interior lot, single-family dwelling.
 - (b) One hundred ten (110) feet and one hundred fifty (150) feet deep for an interior lot, two-family dwelling.
 - (c) One hundred ten (110) feet for a corner lot, single-family dwelling.
 - (d) One hundred twenty (120) feet for a corner lot, two-family dwelling.
- D. Yards: minimum requirements. See § 210-27 for exceptions.
 - (1) Front: thirty (30) feet from edge of right-of-way.
 - (2) Side.
 - (a) Six (6) feet each for a one- or one-and-one-half-story dwelling.
 - (b) Eight (8) feet each for a two-story dwelling.
 - (c) Ten (10) feet each for any other main building.
 - (3) Rear: equal to twenty-five percent (25%) of lot depth, but need not exceed fifty (50) feet.
- E. Buildings. See § 210-27 for exceptions.
 - (1) Maximum height.
 - (a) Two (2) stories, not to exceed thirty (30) feet for main buildings.

- (b) One story, not to exceed fifteen (15) feet for accessory buildings.
 - (2) Minimum floor area of dwelling, not to include garages, breezeways or enclosed patios.
 - (a) One thousand four hundred (1,400) square feet at ground floor level for a one- or one-and-one-half-story dwelling.
 - (b) One thousand five hundred (1,500) square feet total for a two-story dwelling.
- F. Signs: see Article V, Signs.
- G. Parking: see § 210-27.

§ 210-19. Residential Commercial District (R-C). [Amended 2-9-2012 by L.L. No. 5-2012]

The following regulations shall apply in the Residential Commercial District:

- A. Permitted principal uses.
- (1) As permitted and regulated in R-2 Districts.
 - (2) Multifamily dwellings.
 - (3) By special permit of the Board of Trustees (See § 210-28 for regulations):
 - (a) Condominiums and cooperatives.
 - (b) Gift shops.
 - (c) Cafes and similar eating establishments which do not serve alcoholic beverages and do not prepare food for retail sale other than on premises (e.g., bakery, delicatessen, etc.).
 - (d) Telephone exchange.
 - (e) Real estate or insurance offices.

- (f) Medical buildings consisting of offices or clinics for medical doctors, dentists, chiropractors, osteopaths, chiropodists, opticians or optometrists.
 - (g) Nonprofit institutions for charitable, religious, cultural, or community social purposes.
 - (h) Other administrative, professional or executive offices, but not including the selling, manufacturing, servicing or storing of merchandise upon the premises.
 - (i) Government uses and buildings.
 - (j) Mobile home parks. See Chapter 131, Mobile Home Parks, for regulations.
 - (k) Patio homes.
- B. Permitted accessory uses.
 - (1) As permitted and regulated in R-2 Districts.
- C. Lots: minimum requirements.
 - (1) As regulated in R-2 Districts, except for multifamily dwellings.
 - (2) Area for multifamily dwellings.
 - (a) Where no more than ten percent (10%) of the dwelling units have three (3) or more bedrooms, there shall be no less than five thousand (5,000) square feet of lot area per unit for the first four (4) units and two thousand five hundred (2,500) square feet for every unit thereafter, but under no circumstances shall there be less than a total of twenty thousand (20,000) square feet of lot area.
 - (b) Where more than ten percent (10%) of the dwelling units have three (3) or more bedrooms, there shall be no less than six thousand (6,000) square feet of lot area per unit for the first four (4) units and three thousand (3,000) square feet for every unit thereafter, but under no circumstances shall there be less than twenty thousand (20,000) square feet of lot area.
- D. Yards: minimum requirements. See § 210-27 for exceptions.

- (1) Front: thirty (30) feet from edge of right-of-way.
- (2) Side.
 - (a) Six (6) feet each for a one- or one-and-one-half-story dwelling.
 - (b) Eight (8) feet each for a two-story dwelling.
 - (c) Ten (10) feet each for any other main building.
- (3) Rear: equal to twenty-five percent (25%) of lot depth, but need not exceed fifty (50) feet.

E. Buildings. See § 210-27 for exceptions.

- (1) Maximum height.
 - (a) Two (2) stories, not to exceed thirty (30) feet for main buildings.
 - (b) One story, not to exceed fifteen (15) feet for accessory buildings.
- (2) Minimum floor area of dwelling.
 - (a) Multi family dwellings, not to include garages, breezeways or enclosed patios: six hundred (600) square feet per family, plus one hundred (100) square feet for each roomer, boarder or tourist.
 - (b) One-family dwellings: As permitted and regulated in R-1 Districts.
 - (c) Two-family dwellings: As permitted and regulated in R-2 Districts.

F. Signs: see Article V, Signs.

G. Parking: see § 210-27.

§ 210-20. Business District (B-1). [Amended 6-23-2011 by L.L. No. 4-2011]

The following regulations shall apply in the Business District:

A. Permitted principal uses.

- (1) Retail sales, service businesses.
- (2) Cafes, restaurants, taverns or hotels.
- (3) Commercial recreation establishments when conducted only indoors and when lights and sound are controlled to prevent nuisance.
- (4) Dry-cleaning pickup stations or dry-cleaning plants using only nonflammable fluids in self-contained solvent-reclaiming units.
- (5) Hand laundries or laundromats.
- (6) Shops for making articles for sale only on the premises and not employing more than ten (10) persons.
- (7) Art, dance, music or photographic studios.
- (8) By special permit of the Board of Trustees (See § 210-28 for regulations):
 - (a) Assembly halls.
 - (b) Gasoline filling stations or public garages provided that same shall not create a hazard to health, safety, traffic flow, pedestrians, or the general welfare of the public.
 - (c) Veterinary offices which service domesticated animals but do not otherwise house the same except for medical treatment or boarding of small animals not to exceed two weeks in duration, and further provided that there are no exterior facilities utilized for the housing or exercise of animals.

B. Permitted accessory use.

- (1) Residential dwelling units, provided they are not located on the ground floor level of any structure.
- (2) Customary business accessory uses.

C. Lots, minimum requirements:

- (1) Area
 - (a) Twenty thousand (20,000) square feet for an interior lot.

- (b) Thirty thousand (30,000) square feet for a corner lot.
- (2) Width.
 - (a) One hundred (100) feet wide and two hundred (200) feet deep for an interior lot.
 - (b) One hundred fifty (150) feet wide and two hundred (200) feet deep for a corner lot.
- D. Yards: minimum requirements. See § 210-27 for exceptions.
 - (1) Front: five (5) feet from edge of right-of-way.
 - (2) Side.
 - (a) Five (5) feet.
 - (b) Where a side yard abuts a lot in an R District, its width shall be not less than thirty (30) feet or a distance equal to the height of the principal building, whichever is greater.
 - (c) Where a side yard is used for either vehicular ingress or egress, it shall be at least fifteen (15) feet wide.
 - (d) Where a side yard is used for vehicular ingress and egress, it shall be at least thirty (30) feet wide.
 - (3) Rear: 10 feet, but where the rear yard abuts an R District, 30 feet.
- E. Yards: maximum requirements. See § 210-27 for exceptions.
 - (1) Front: fifteen (15) feet from edge of right-of-way.
- F. Buildings. See § 210-27 for exceptions.
 - (1) Maximum height: four (4) stories, not to exceed seventy (70) feet.
 - (2) Minimum height (building façade only): twenty (20) feet, for all portions of the building facade that face a public street.
 - (3) Minimum floor area: one thousand five hundred (1,500) square feet

G. Signs: see Article V, Signs.

H. Parking: see § 210-27.

§ 210-21. Commercial District (C-1). [Amended 1-19-2006 by L.L. No. 1-2006]

The following regulations shall apply in the Commercial District:

A. Permitted principal uses.

- (1) Any use permitted in the R-C Districts, except one-family dwellings, two-family dwellings, and mobile home parks, which shall be specifically excluded.
 - (a) A special permit by the Board of Trustees is not required for the permitted uses from the R-C district.
- (2) Retail sales, service businesses.
- (3) Cafes, restaurants, taverns or hotels.
- (4) Commercial recreation establishments when conducted only indoors and when lights and sound are controlled to prevent nuisance.
- (5) Dry-cleaning pickup stations or dry-cleaning plants using only nonflammable fluids in self-contained solvent-reclaiming units.
- (6) Hand laundries or laundromats.
- (7) Shops for making articles for sale only on the premises and not employing more than five persons.
- (8) Art, dance, music or photographic studios.
- (9) Assembly halls.
- (10) Nursing or convalescent homes.
- (11) By special permit of the Board of Trustees (See § 210-28 for regulations):
 - (a) Golf driving range.
 - (b) Drive-in theater.

- (d) Gasoline filling stations or public garages provided that same shall not create a hazard to health, safety, traffic flow, pedestrians, or the general welfare of the public.
- (e) Storage facilities.
- (f) Veterinary offices which service domesticated animals but do not otherwise house the same except for medical treatment or boarding of small animals not to exceed two weeks in duration, and further provided that there are no exterior facilities utilized for the housing or exercise of animals.

B. Permitted accessory use.

- (1) As permitted and regulated in R-C Districts.
- (2) Customary business accessory uses.

C. Lots, minimum requirements:

- (1) As regulated in R-C Districts for multifamily dwellings.
- (2) Area
 - (c) Twenty thousand (20,000) square feet for an interior lot.
 - (d) Thirty thousand (30,000) square feet for a corner lot.
- (3) Width.
 - (c) One hundred (100) feet and two hundred (200) feet deep for an interior lot.
 - (d) One hundred fifty (150) feet and two hundred (200) feet deep for a corner lot.

D. Yards: minimum requirements. See § 210-27 for exceptions.

- (1) As regulated in R-C Districts for multifamily dwellings.
- (2) Front: thirty (30) feet from edge of right-of-way.
- (3) Side.

- (a) Ten (10) feet.
 - (b) Where a side yard abuts a lot in an R District, its width shall be not less than thirty (30) feet or a distance equal to the height of the principal building, whichever is greater.
 - (c) Where a side yard is used for either vehicular ingress or egress, it shall be at least fifteen (15) feet wide.
 - (d) Where a side yard is used for vehicular ingress and egress, it shall be at least thirty (30) feet wide.
 - (e) For dwellings, they shall be as regulated in R-C Districts.
- (4) Rear: 10 feet, but where the rear yard abuts an R District, 30 feet.
- E. Buildings. See § 210-27 for exceptions.
 - (1) As regulated in R-C Districts for multifamily dwellings.
 - (2) Maximum height: two (2) stories, not to exceed forty (40) feet.
 - (3) Minimum floor area: one thousand five hundred (1,500) square feet
- F. Signs: see Article V, Signs.
- G. Parking: see § 210-27.

§ 210-22. Commercial/ Light Industrial District (C-2).

The following regulations shall apply in the Commercial/Light Industrial District:

- A. Permitted principal uses.
 - (1) Any nonresidential use permitted and regulated in C-1 Districts.
 - (2) Machine shops.
 - (3) Manufacturing and industrial uses contained wholly inside buildings on the premises.

- (4) Dry-cleaning plants or laundries.
 - (5) Grain storage or feed mills.
 - (6) Warehouses or storage facilities.
- B. Permitted accessory uses.
 - (1) Customary accessory uses.
- C. Lots, minimum requirements: as regulated in C-1 Districts.
- D. Yards: minimum requirements. See § 210-27 for exceptions.
 - (1) Front: thirty (30) feet from edge of right-of-way.
 - (2) Side.
 - (a) Ten (10) feet for a one-story building, except that where a side yard abuts an R District, it shall be not less than fifty (50) feet.
 - (b) Twenty (20) feet for a two-story building, except that where a side yard abuts an R District, it shall be not less than fifty (50) feet.
 - (c) Fifteen (15) feet each for any other main building.
 - (3) Rear: equal to twenty-five percent (25%) of lot depth, but need not exceed fifty (50) feet, except that where a rear yard abuts an R District, it shall be no less than fifty (50) feet.
- E. Buildings. See § 210-27 for exceptions.
 - (1) Maximum height.
 - (a) Three (3) stories, not to exceed fifty (50) feet for main buildings.
 - (b) One (1) story, not to exceed twenty (20) feet for accessory buildings.
- F. Signs: see Article V, Signs.
- G. Parking: see § 210-27.

§ 210-23. Industrial District (I-1). [Amended 5-18-2006 by L.L. No. 14-2006]

The following regulations shall apply in the Industrial District:

A. Permitted principal uses.

- (1) Any non-residential use permitted in the C-2 District.
- (2) Baking plants, bottling works or creameries.
- (3) Building materials yard or coal yards.
- (4) Concrete products or ready-mix plants.
- (5) Contractor's equipment storage yards.
- (6) Dry-cleaning plants or laundries.
- (7) Freight or truck terminals; overnight parking of trucks, tractors or trailers.
- (8) Grain storage or feed mills.
- (9) Warehouses or storage facilities.
- (10) Junkyards. (See Chapter 120, Junkyards, for regulations).
- (11) By special permit of the Board of Trustees (See § 210-27 for regulations):
 - (a) Unobjectionable manufacturing or processing so conducted that no unreasonable light, smoke, odor, dust, dirt, noxious gas, waste, vibration, fire hazard, traffic hazard or congestion results therefrom.

B. Permitted accessory uses.

- (1) Customary accessory uses.

C. Lots: no minimum area.

D. Yards: minimum requirements. See § 210-27 for exceptions.

- (1) Front: thirty (30) feet from edge of right-of-way, except that where used for off-street parking or when opposite an R District, its depth shall be no less than fifty (50) feet.
 - (2) Side: ten (10) feet each, except that where a side yard abuts an R District, it shall be not less than fifty (50) feet.
 - (3) Rear: ten (10) feet, except that where a rear yard abuts an R District, it shall be no less than fifty (50) feet.
- E. Buildings. See § 210-27 for exceptions.
- (1) Maximum height: the same as in C-2 Districts, except that greater height may be permitted by the Village Board.
- F. Signs: see Article V, Signs.
- G. Parking: see § 210-27.

§ 210-24. Conservation Sector.

- A. Purpose. A Conservation Sector is hereby established within the Village of Alden to limit development on flood-prone lands abutting Ellicott Creek, including its tributaries, for the following purposes:
- (1) To allow Ellicott Creek to carry and store its maximum amount of water without restrictions.
 - (2) To prevent encroachments on its floodplain which would increase floodwater levels.
 - (3) To prevent any increased threat to health, safety and property to the immediate area as well as to those downstream.
 - (4) To protect the water quality and general ecology of the above watercourse by controlling land use which might have adverse effects thereon by location in or on its floodplain.
- B. Extent. Instead of being confined to any single zoning district, the Conservation Sector is superimposed over any district lying within the floodplain of Ellicott Creek, including its tributaries. Conservation Sector boundaries are comprised of

flood-prone areas as determined by the Soil Conservation Service (United States Department of Agriculture Soil Conservation Service and Cornell University Agricultural Experiment Station, in cooperation with Erie Soil and Water Conservation District) and as delineated on the Zoning Map⁴ by a gray tone.

C. Use limitations.

- (1) Horticultural uses, where permitted by the district regulations, not requiring permanent or temporary structures for human habitation, including but not limited to vegetable farms, orchards and nurseries shall be permitted.
- (2) Recreational uses, where permitted by the district regulations, including parks, swimming areas, playgrounds, golf courses and driving ranges, picnic grounds, wildlife and nature preserves, hunting, fishing and hiking areas and such transient amusement enterprises as circuses, rides and shows shall be permitted.
- (3) Structures accessory to the above-permitted uses which would not be adversely affected by flooding and whose presence would not significantly affect the efficiency or storage capacity of the floodplain or floodway or which would not tend to increase flood heights shall be permitted.
- (4) No structure for human habitation shall be permitted.
- (5) No structure (temporary or permanent), fill, deposit, obstruction, excavation, storage of materials or other use shall be permitted in this district which would adversely affect the efficiency or storage capacity of the floodplain or which would tend to increase flood heights.

D. Procedures.

- (1) Any proposed development in the Conservation Sector must have the written approval of both the Planning Board and the Village Board before any building permit is issued.
- (2) The above use limitations may be modified or even waived if, in the judgment of both the Planning Board and the Village Board, the proposed development would not violate the purpose of the Conservation Sector as set forth above in this section under Subsection A. Engineering studies

⁴ Editor's Note: The Official Zoning Map is on file in the village offices.

may be required to substantiate this, the costs of which shall be borne by the applicant.

§ 210-25. Planned unit development (PUD) and cluster development (CD).

A. Intent.

- (1) The intent of the planned unit development (PUD) and the cluster development (CD) is to:
 - (a) Promote greater flexibility and consequently more creative and imaginative design for the development of residential areas than is generally possible under conventional residential zoning districts.
 - (b) Meet the growing demand for housing by greater variety in type, design and setting of dwellings.
 - (c) Encourage conservation and more efficient use of land in such developments and maintenance of high environmental quality throughout the development.
 - (d) Encourage the most skillful planning of parts of the community in accordance with the objectives of the Comprehensive Plan.
 - (e) Provide for the utilization of planning criteria in the arrangements of buildings related to common open space.
 - (f) Utilize topography and other site features to best advantage to obtain creative and coordinated designs.
 - (g) Expand the scope of land planning and development beyond a concept of homogeneous use within formally defined districts and beyond a concept of individual lots and structures thereon by the planning and development of larger areas with groups of structures erected thereon to create a diversified and coordinated entity.
- (2) The planned unit development may transcend district boundaries and thereby permit a nonconforming development within more than one district.

B. Purpose. The purpose of the cluster development is to provide for:

- (1) Conservation of land, permitting more usable open space for recreation, community activities and the preservation of unique features.

- (2) The more economical development of land with lower installation and maintenance costs of streets and utilities.
- (3) Safer accommodations for both pedestrian and vehicular traffic.
- (4) An increase in privacy and to create a stronger sense of community.
- (5) A desirable alternative to strip development.

C. Objectives. In order to carry out the intent of this section, a planned unit development (hereafter referred to as "PUD") shall achieve the following objectives:

- (1) A varied choice in the types of environment, occupancy, tenure, types and costs of housing, lot sizes and community facilities available to existing and potential village residents.
- (2) A more efficient and economical arrangement of land uses, buildings, circulation systems and utilities, resulting in smaller networks of utilities and streets and lessened burden of traffic on streets and highways, thereby lowering utility and maintenance costs borne by new development.
- (3) Convenience in location of commercial and community service areas.
- (4) Sufficient civic and community facilities, carefully integrated with adjoining areas.
- (5) Extensive usable open space and recreation areas, appropriate in terms of location, size and suitability for intended function.
- (6) The comprehensive design of stormwater retention and proper drainage systems.
- (7) Guidance and control of development in flood hazard areas so that life and property within and abutting such areas are protected.
- (8) Increased safety for all modes of travel, including pedestrian and bicycle.
- (9) Preservation, to the greatest extent possible, of such features as trees or outstanding or unique natural topography, including marshlands and other geological features.
- (10) Utilization to the best advantage of trees and soil characteristics to prevent soil erosion and to create and preserve natural and man-made features

which will give increased environmental quality, encourage uses which will maintain high environmental quality and provide an attractive community design. These may include natural woodlands, grassland, marshlands and lakes.

- (11) A creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.
- (12) An appropriate balancing or accommodation of the effect of major public or private development elsewhere in the village or its vicinity.
- (13) Provision for the orderly updating of long-term, large-scale development plans to reflect changing circumstances within an overall village-approved planning framework.
- (14) A more desirable environment than would be possible through the strict application of other sections of this chapter.

D. Application procedures.

- (1) Initiation of proceedings. Proceedings to create a PUD or CD may be initiated either by the Village Board or by application of the owner, as defined in Subsection D(3)(a)[2] below. Accordingly, the provisions of Subsection D(2), (3)(a) and (3)(b) are applicable only to proceedings initiated upon application of the owner or owners of the proposed PUD or CD site.
- (2) Preapplication conference. To obtain information, each applicant shall confer with the Planning Board and interested department heads in connection with the preparation of the PUD and CD application. It shall be the responsibility of the Planning Board to contact and invite these department heads to a joint meeting. The applicant shall submit a concept plan showing the proposed location and components of the PUD or CD. Thereafter, the Planning Board shall furnish the applicant with its written comments regarding such conference, including appropriate recommendations and information concerning the procedure and criteria for approval to inform and assist the applicant prior to his or her preparing the components of the PUD or CD application.

- (3) Application for development plan approval. Formal application for a PUD or CD shall be initiated by filing 10 copies of the information enumerated below with the Village Clerk and paying the required fee.⁵

(a) Documents. The following shall be required:

- [1] A legal description of the total site proposed for development and present proposed zoning.
- [2] Evidence that the applicant owns the property to be included in the PUD or CD. The word "own" shall, in addition to its customary meaning, include the right to purchase by contract or option or any other form of firm commitment to the lands.
- [3] The name of the developer of the proposed PUD or CD.
- [4] A land survey of the total site prepared by a land surveyor or professional engineer licensed by the State of New York.
- [5] A statement of how the proposed plan meets the intent and objectives of the PUD or CD. This statement should include a description of the character of the proposed development, the rationale behind the assumptions and choices made by the applicant and a discussion of how the development meets the objectives of the Comprehensive Plan.
- [6] A general statement as to how open space is to be owned and maintained, showing that criteria in § 210-25S(4) are met.
- [7] A statement indicating the approximate date when construction of the PUD or CD can be expected to begin and be completed.
- [8] A statement of the applicant's intentions with regard to the future selling or leasing of the PUD or CD, the improvements to be erected therein or portions thereof, such as land areas, dwelling units, etc.

⁵ Editor's Note: See Ch. A220, Fees.

- [9] A general description of the proposed provision of other community and cultural facilities.
 - [10] Quantitative data for the following:
 - [a] The total number and type of dwelling units, indicating distribution by dwelling unit type (i.e., single-family detached, single-family attached, apartments).
 - [b] A calculation of residential density in dwelling units per gross acre less the total area to be used exclusively for commercial or institutional purposes.
 - [c] The total amount of open space, with a breakdown by general uses proposed.
 - [d] Estimated future population of school-age children by age level.
 - [11] Any environmental quality review analysis (SEQRA).
- (b) Development plan and supporting maps. The development plan must be to a scale not greater than one inch equals 200 feet, although it need not be to the precision of finished engineering drawings and must show the major details of the PUD or CD and contain the following minimum information, unless waived by the Planning Board as not being applicable:
- [1] The existing site conditions, including property lines, contours at five-foot intervals, watercourses, including drainage ditches in the village storm drainage system floodplains areas subject to flooding at one-hundred-year frequency, unique natural features, wetlands, tree cover, soil information and evaluation for the uses proposed.
 - [2] Proposed land use arrangement and acres by use.
 - [3] The location and type of all existing structures.
 - [4] The location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common open spaces, public parks, recreational areas, school sites and

similar public and semipublic uses, including pathways, drainage ditches and water storage areas.

- [5] The existing and proposed vehicular circulation system, showing major points of access to public rights-of-way, including major points of ingress and egress to the development. Notations of proposed ownership, public or private, should be included where appropriate.
- [6] The existing and proposed bikeway and pathway circulation system, including its interrelationships with the vehicular circulation system.
- [7] The existing and proposed major storm drainage system, to include:
 - [a] The direction and quantity of flow.
 - [b] The location of major existing and proposed storm sewers and drainageways.
 - [c] A description of stormwater storage and movement features.
 - [d] Treatment of floodways and drainageways.
 - [e] Treatment thereof with the rest of the village.
- [8] The existing and proposed sanitary sewage disposal system serving the development, including its projected load and the effect the load will have on the existing and proposed village disposal system.
- [9] Existing and proposed waterlines and linkages with the village system and the effect the demand therefrom will have on the existing and proposed water supply system.
- [10] Information on land areas for 500 feet beyond the perimeter of the proposed PUD showing the relationships between the proposed development, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.

- [11] The proposed treatment of the buffer zone of the PUD or CD.
- [12] Sketches or pictorial representation of typical structures sufficient to relay the basic architectural intent of the proposed improvements, but need not be encumbered with final detail.

E. Planning Board Review/Zoning Board of Appeals Review.

- (1) Upon receipt of a proposed development plan for a PUD or CD, the Village Clerk shall transmit a copy of the plan and accompanying documentation to the Village Engineer, the Superintendent of Public Works, the school district and such other agencies as he or she may deem appropriate for their review, report and recommendation. Such officials and agencies shall each, within 30 days from receiving the development plan and supporting documents, furnish to the Planning Board a report pertinent to their respective jurisdictions.
- (2) The Planning Board shall review the development plan and related documents and evaluate the reports enumerated above. Within 60 days following the submission of the development plan and data to the Planning Board, the Planning Board shall furnish to the Zoning Board of Appeals and the applicant either its finding that the development plan complies with the regulations, standards and criteria prescribed by this chapter or a finding of any failure of such compliance and recommendation that the development plan be approved, disapproved or modified.
- (3) If in any such evaluation the Planning Board finds that any submission requirements, regulations, standards or criteria prescribed by this chapter are inapplicable because of unusual conditions of the planned residential development or the nature and quality of the proposed design, it may recommend to the Village Board that an adjustment in such regulations, standards or criteria be made for the development or a proposed site in the development.
- (4) Upon completion of the Planning Board review and submission of a report, whether favorable or unfavorable, the Zoning Board of Appeals shall review the development plan and related documents and evaluate the reports enumerated above. Within 30 days following the submission of the development plan and data to the Zoning Board of Appeals, the Zoning Board of Appeals shall furnish to the Village Board and applicant either its finding that the development plan complies with the regulations, standards

and criteria prescribed by this chapter and regulations or a finding of any failure of such compliance and recommendation that the development plan be approved, disapproved or modified. If in any such evaluation the Zoning Board of Appeals finds that submission requirements, regulations, standards or criteria prescribed by this regulation are inapplicable because of unusual conditions of the planned unit development or the nature and quality of the proposed design, it may recommend to the Village Board that an adjustment in such regulations, standards or criteria be made for the development or a proposed site in the development.

(5) Favorable report.

(a) A favorable report shall include a recommendation to the Village Board that a public hearing be held for the purpose of considering the creation of a PUD or CD.

(b) It shall be based on the following findings which shall be included as part of the report:

- [1] The proposed development plan meets the intent and objectives of a PUD or CD as expressed in Subsections A and C of this section.
- [2] The proposed development plan meets all the requirements of Subsection O of this section.
- [3] There are adequate services and utilities available or proposed to be made available for the construction of the development.
- [4] The proposed development plan is consistent with the objectives of the Village of Alden's Comprehensive Plan.

(6) Unfavorable report. An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what changes are necessary in order to receive a favorable report. The applicant may, within 30 days after receiving an unfavorable report, file an application with the Village Clerk for a hearing. The Village Board then shall hold a public hearing for a PUD or CD and shall render a decision within 60 days after the hearing on such application.

F. Village Board action; public hearing and decision. The Village Board shall take action:

- (1) Upon receiving a favorable report from the Planning Board and/or the Zoning Board of Appeals or an application following an unfavorable report as described in Subsection E(6) of this section; or
- (2) At any time following the submission of a proposed development plan meeting the applicable requirements of Subsection C of this section by the Planning Board in the case of proceedings on the Village Board's initiative, the Village Board shall set a date for a public hearing for the purpose of considering the creation of a PUD or CD in accordance with the procedures established under this chapter, the Village Law or other applicable law. The Village Board shall hold a public hearing for a PUD or CD and render a decision within 60 days following the hearing. The published notice of any public hearing scheduled to consider the creation of a PUD or CD shall state that the proposed development plan, with a list of all property ownerships within the district (listed by house number, name of owner, street name and tax number), and a map of the proposed district, showing proposed use classification areas and property lines of all parcels included in district areas, are available for public examination in the office of the Village Clerk prior to the hearing and thereafter until such time as the Village Board shall act to approve or disapprove the creation of the district and shall describe any adjustments in any regulations, standards or criteria of this chapter proposal pursuant to Subsection E(3) hereof.

G. Zoning.

- (1) The determination by the Village Board of whether to create a PUD or CD or adjust any regulation, standards or criteria of this chapter shall be based on its review of the proposed development plan, the report of the Planning Board and any matters brought forth at the hearing and approval or rejection of a development plan where the Village Board has acted on its own initiative. Such approval shall include the making of the findings specified in Subsection E(4). Upon the creation of a PUD or CD in such a manner, the Zoning Map⁶ shall be notated. The Village Board may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its zoning resolution additional conditions or requirements consistent with the intent and objectives of this section for the applicant to meet. If such additional conditions or requirements are proposed, the applicant shall be given notice, in writing, of such additional conditions or requirements at least 15 days prior to the creation of the PUD or CD, and the Zoning Map shall not be amended

⁶ Editor's Note: The Zoning Map is on file in the village offices.

until the applicant has filed with the Village Clerk written consent to the development plan, as modified.

- (2) Amending the Zoning Map to indicate a PUD or CD does not constitute recording of a subdivision plat nor authorize the issuance of building permits. Such actions can only be taken after approval of the site plan.
- H. Amendment of development plan. A development plan amendment (other than as provided in Subsection L hereof) may be initiated in the same manner as provided in Subsection E hereof. The application shall be filed with the Village Clerk, accompanied by such supporting material as may be necessary to enable the Planning Board and the Village Board to review the request for amendment except as hereinafter provided. Review of and action upon the request by the Planning Board and the Village Board shall comply with the requirements of Subsections E through G hereof. A public hearing thereon shall only be required if the amendment contemplates a change in the provisions of this section or in the boundaries of the PUD or CD or a change in a use classification of the development plan.
- I. Application for site plan approval. Application for site plan approval shall be to the Planning Board and may include all or a portion of the area included in a PUD or CD. The information required by Subsection I(1) shall be furnished with respect to the entire PUD or CD and shall be submitted at or before the first site plan application. The application shall be accompanied by 10 copies of the following information prepared by a New York State licensed lawyer, engineer, surveyor, architect or landscape architect, as appropriate, and payment of the required fee:⁷
 - (1) Information required for entire PUD or CD:
 - (a) A detailed breakdown of total open space by uses and as to how it is to be owned and maintained, showing that the criteria of Subsection P(3) hereof are met.
 - (b) A development schedule indicating when construction of the site(s) can be expected to begin and be completed and showing that the phasing criteria of Subsection M(1) hereof are met.
 - (c) Total land and/or building area to be used for nonresidential purposes by category.

⁷ Editor's Note: See Ch. A220, Fees.

- (d) A plan or program indicating provisions for management and protection of existing topographic features, soil, water, woodland, wetland, marshland, grassland and wildlife resources.
- (e) Materials and treatment proposed to be used for the perimeter of the PUD or CD.
- (f) An area map showing the entire PUD or CD and the proposed site area.
- (g) A plan of the site area, including the following information:
 - [1] The title of the drawing, including the name of the development, the name of the applicant and the person who prepared the drawing.
 - [2] North point, the scale and the date.
 - [3] Topography at one-foot contour intervals.
 - [4] Boundaries of the proposed site area and its acreage.
 - [5] The lines of existing and proposed streets and bicycle or pedestrian ways within, connecting to and immediately adjoining the proposed site and the names of all proposed streets. No street name change shall be made following site plan approval unless approved by the Planning Board.
 - [6] The layout of proposed property and lot lines, including property which is to be offered for dedication or other disposition for public ownership and use with the purpose indicated and property that is proposed to be reserved by deed covenant for common use.
 - [7] The location, proposed use, floor area and height of all buildings and the location of all parking and service areas with access drives.
 - [8] The location and proposed development of all open spaces, including parks, playgrounds and open reservations.
 - [9] Existing and proposed wet and dry watercourses and direction of flow.

- [10] The location of all existing or proposed site improvements, including stormwater systems, culverts, retaining walls and fences; a description of the method of water supply and sewage disposal and the capacity and location of such facilities; and the location of fire hydrants.
- [11] The use and proposed use of all adjacent property, including elevations within 25 feet of perimeters.
- [12] The location, size, materials, color and design of lighting facilities, signs and monuments.
- [13] A tracing overlay showing all soil areas and their stratification and those areas, if any, with moderate to high susceptibility to ponding or flooding and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and the program to be undertaken to correct potential erosion problems.
- [14] Provisions for all stormwater management, including but not limited to location and type of floodproofing measures where needed, retention areas, open stormwater facilities and underground tiled drainage, as well as drainage channels, both proposed and to remain, including data of gradients of the new system relative to existing facilities and a time schedule for the provision of such facilities. This shall include all ditches, swales, ponds and like facilities, including the acre-feet and/or cubic-foot-per-second (cfs) capacity of such facilities, where applicable. Such facilities shall provide, by the combination of storage and/or improved stream flow, completely for the stormwater on the proposed site plan area and shall provide the land or other facilities necessary to permit water movement from adjacent properties supporting calculations for all stormwater runoff and conveyance giving peak flow data. To meet this requirement, such facilities may be augmented by appropriate facilities located outside the development area which are committed to be in service upon the completion of the development described by the site plan.

(2) Planting plan.

- (a) A planting plan pursuant to the requirements as set forth by the Planning Board indicating the location of trees and other materials planted and of existing trees and other materials to be preserved or those to be removed and information regarding preservation or creation of unique natural areas, grassland, wetland, marshland and wildlife resources shall be required.
 - (b) In cases where the Planning Board finds that, due to the size, topography or location of the PUD or CD, land for a park, playground or other recreational purposes cannot be properly located therein or if, in the opinion of the Board, it is not desirable, the Board may waive the requirement that the plans show land for such purposes.
- (3) Public improvement plans. Prior to the granting of a village permit for public improvements, preliminary construction plans and specifications for all public improvements, including construction detail sheets which shall show the following information:
 - (a) Preliminary profiles showing existing and proposed elevations along the center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets, within 100 feet of the intersection, shall be shown. A plan of all roadway intersections with finish grade elevations in sufficient detail for evaluating drainage of the permanent area and transition impact to motorists, etc., drawn to a scale of one inch equals 20 feet or larger shall be shown. All elevations must be referenced to established United States Geologic Survey (USGS) or approved local bench marks where they exist within 1/2 mile of the boundary of the site plan area.
 - (b) Preliminary plans and profiles showing the locations and a typical cross section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the location of street trees, streetlighting standards and street signs; the locations, size and invert elevations of existing and proposed waterlines, sanitary sewers, stormwater drains and fire hydrants; and the location and size of all underground utilities or structures.

- (4) Building plans. Construction drawings in sufficient detail to permit review and approval under the Village Building and Construction Code.⁸
 - (5) Covenants. The proposed forms of covenants running with the land, deed restrictions (including those with respect to the use of the common land); covenants, restrictions or easements proposed to be recorded; and covenants proposed for maintenance.
 - (6) Development schedule. An updated development schedule covering the site plan area. The schedule shall include the improvement of open space, the construction of buildings and structures in the open space and construction of other improvements in the site plan area and the proposed coordination of such activities.
- J. Site plan review. Review of the site plan shall be designed to ensure that the detailed planning for a development area is in substantial conformance with the objectives of this section and the development plan and shall be based upon consideration of the following factors:
- (1) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structure and traffic control.
 - (2) The adequacy and arrangement of pedestrian traffic access, walkway structures and control of intersections with vehicular traffic and pedestrian convenience.
 - (3) The location, arrangement, appearances and sufficiency of off-street parking and loading.
 - (4) The location, arrangement, size and design of buildings, lighting, signs and monuments.
 - (5) The conformance of improvement plans with village specifications and the conformance of building plans to applicable village codes.
 - (6) The relation of the various uses to one another and their scale.
 - (7) The adequacy of usable space for active and passive recreation.

⁸ Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

- (8) The adequacy of existing and proposed facilities for sanitary waste disposal and stormwater storage and disposal, including drainage channels, ponds and water storage in relation to location in the watershed.
 - (9) The adequacy of open space lands for public ownership and use offered for dedication or other disposition to the village or other public entity.
 - (10) The adequacy of structures, roadways, utilities and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion.
 - (11) The adequacy of school sites and facilities to serve the PUD or CD.
 - (12) The adequacy of other existing public facilities and services to serve projected needs of the PUD.
 - (13) The capacity of other proposed public facilities to serve uses located within the appropriate service areas of such facilities.
 - (14) The protection of adjacent properties against noise, glare, unsightliness or other objectionable features; and the adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer or weather buffer between adjacent uses and adjoining lands.
- K. Planning Board action on site plan application. Within 62 days of the receipt of the application for site plan approval, the Planning Board shall act on it and notify the Village Board and the applicant of its action. In determining its action, the Planning Board shall seek advice and assistance from the Village Attorney with respect to all covenants, restrictions and easements to be recorded and covenants for maintenance; the Village Engineer and Superintendent of Public Works with respect to improvement plans; the Village Building Inspector with respect to building plans; and any other persons or committees.
- (1) If, in its review of the site plan, the Planning Board finds that any regulations, standards or criteria prescribed by this section are inapplicable because of unusual or unforeseen conditions affecting the proposed site plan development or because of the nature or quality of the proposed design, it may recommend to the Village Board that an adjustment be made in such regulations, standards or criteria consistent with the purposes of this section as applied to the proposed site plan development. The Village Board also may recommend and/or approve such adjustments upon its own initiative.

- (2) The Planning Board's report shall state whether or not the site plan is approved and shall include a detailed statement of the basis for any Planning Board determination of noncompliance with any substantive criterion, standard or regulation of this section. In such case, the Planning Board may recommend further study of the site plan after it has been revised or redesigned.
- (3) A copy of such report shall be immediately filed with the Village Clerk and delivered to the applicant following such approval or disapproval of the site plan.
- (4) When the Planning Board disapproves a site plan, it will be sent to the Village Board for final action only on the written request of the applicant.

L. Conformity to development plan.

- (1) It is expected that the site plan will be in conformance with the goals and objectives of the development plan approved by the Village Board. However, if in preparing the site plan it becomes apparent that certain elements of the development plan, as it was approved by the Village Board, were unfeasible and in need of significant modification or have become so since such approval, the applicant may incorporate said modifications in the site plan. The Planning Board shall then determine whether the modified site plan is in keeping with the intent of this section. The Planning Board, as part of its report referred to in Subsection K hereof above, shall notify the Village Board and the applicant of its recommendation in such regard, stating all of the factors involved and its reasons for recommending approval or disapproval of any such modifications.
- (2) All such site plans shall be both prepared and signed by a New York State licensed professional engineer who shall so verify conformity of the site plan to the development plan.

M. Village Board action.

- (1) Within 62 days of receiving an application, the Village Board shall either approve or disapprove the site plan. The basis for such a decision shall be the conformance of the site plan to the approved or modified development plan, to other applicable village ordinances and to the objectives of the community development plan and this section.

- (2) If the Village Board determines that a site plan does not comply with any substantive criterion, standard or regulation of this section, then the record of such determination shall be delivered to the applicant, including a separate statement setting forth in detail the exact nature of such noncompliance and all factors included in the basis for the Village Board's determination.
- (3) The applicant shall be afforded a reasonable opportunity, on one or more occasions as circumstances require, to appear before the Village Board and/or the Planning Board on reasonable notice to present his or her position concerning compliance of the proposed site plan with the substantive criteria, standards and regulations of this section.
- (4) The Village Board may require the issuance of a performance bond on all or part of any such PUD or make such other requirements as deemed necessary.
- (5) In no event may an applicant commence any development until such time as final approval is issued.
- (6) In the event that an applicant does not complete any such development, the Village Board, in its discretion, may, in addition to the retention of the performance bond, require that the applicant return the site to the original condition prior to the commencement of the development.

N. Other regulations applicable to PUD or CD Districts.

- (1) Development phasing. If the development is to be implemented in phases, each phase must have adequate provision for access, parking, open space, recreation areas and stormwater management and other public improvements to serve the development in accordance with the applicable criteria set forth for PUDs or CDs in the event that other phases are not constructed. Where the overall development of an entire PUD or CD site will require more than 24 months to complete, such development shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers or protective areas in order to prevent damage to completed phases, to future phases and to adjoining property.
- (2) Subdivision review. Site plan review under the provisions of this chapter shall suffice for Planning Board and Village Board review and approval of subdivisions, subject to the following conditions:

- (a) The PUD or CD shall be platted as a subdivision; however, if the district is being developed in stages, it may be platted and filed in corresponding components.
 - (b) The applicant shall prepare sets of subdivision plats suitable for filing with the office of the Erie County Clerk in addition to the drawings required above. Subdivision plats shall be approved by the Planning Board prior to certification by the Village Clerk and recording by the Erie County Clerk's office.
- (3) Regulation after initial construction and occupancy. For the purposes of regulating the development and use of property after completion of initial construction and occupancy, all use changes shall be based upon a special permit granted by the Village Board after receiving a recommendation from the Planning Board.
- (4) Changes in site plan.
 - (a) If, subsequent to the approval of a site plan by the Village Board, the applicant proposes any modification (other than to correct minor or technical omissions or inaccuracies) of the site plan, the procedures set forth in Subsections I and J shall be applicable to such modification, except that the materials submitted to the Planning Board and the Village Board shall relate only to such modification.
 - (b) At any time within 40 days following the initial site plan submission to the Planning Board, the applicant may submit to the Planning Board modifications which do not materially affect the fundamental character of a proposed site plan, and the time periods stated herein shall continue to apply.
- (5) Commencement of construction. No construction or site improvement work may commence until site plan approval has been granted.
- O. Permitted uses, criteria, standards and regulations. Uses, criteria, standards and regulations are hereby established with respect to planning of land and the arrangements of buildings and open spaces for those areas which are included in a PUD or CD and which require development and site plan approval. The application of the criteria, uses, standards and regulations set forth in this subsection are intended to result in the optimum development and use of land in the village. They are intended to ensure full consideration of every planning

element pertinent to the objectives of this section and the community development plan.

- (1) Minimum area. The minimum area required to qualify for a PUD or CD shall be 7 ½ contiguous acres of land. This requirement shall not apply to boundary change amendments under Subsection H above. For purposes of this subsection, lands separated by streams or drainage courses, highways, streets or other public rights-of-way shall be deemed contiguous. Boundaries should assume reasonably regular configurations, taking advantage of natural features, public rights-of-way and other clearly defined features as outer perimeters in order to facilitate buffering between the PUD and CD and adjacent areas and in order to minimize the development obstacles created by sharply irregular boundaries resulting from noncontiguous ownership patterns.
- (2) Maximum area shall be 50 acres.
- (3) Location of planned unit development or cluster development. The PUD or CD shall be applicable to any area of the village where the applicant can demonstrate or the Village Board, on its own initiative or upon recommendation of the Planning Board, determines that the characteristics of the proposed site will meet the objectives of this section.
- (4) Permitted uses. A PUD or CD designed in accordance with the regulations, standards and design criteria set forth herein and in other applicable provisions of this section may include:
 - (a) Principal buildings and uses.
 - [1] All types of single-family dwellings. In developing a balanced community, the use of a variety of housing types, styles and construction methods shall be deemed most important in keeping with this section.
 - [2] Multifamily dwellings.
 - [3] Small convenience retail and service facilities, except for automobile drive-in restaurants and office facilities designed to serve the needs of residents of the neighborhood and having no advertising outside the building except identification signs as permitted by this section. Commercial uses shall be provided in appropriate relation to the location and concentration of dwelling units

to be served thereby. Limited commercial development designed to be compatible with residential development may be within a primarily residential building or within a building used for commercial purposes only. Such commercial facilities shall be allowed as follows:

Area of PUD (acres)	Maximum Gross Floor Area (square feet)
Under 10	None allowed
10 to 20	4,000
20.1 to 30	10,000
30.1 to 40	15,000
40.1 to 50	20,000

- [4] Recreation areas and facilities, except activities producing excessive noise.
- [5] Community facilities, including schools, fire and police protection services, cultural and religious facilities and day-care centers.

(b) Accessory building uses.

- [1] Private garages and parking areas for the use of guests.
- [2] Gardens, fences, walls, pools and other recreation facilities on private or common land.
- [3] Vehicular, pedestrian and bicycle circulation systems.
- [4] Storage yards and open equipment structures compatible with the above uses and suitably screened, fenced and buffered from adjacent uses in accordance with the performance standards hereof. Storage yards for house trailers, boats and similar equipment and for open-space maintenance equipment are included in this classification.
- [5] Other accessory buildings and uses consistent with the intent, objectives and criteria of this section.

- (c) Similar main uses. Uses not specifically enumerated above may be permitted by the Village Board if determined to be similar to and compatible with uses permitted hereunder and in accordance with the standards and criteria hereof.
- (5) PUD area density. The overall residential density of a PUD shall not exceed five dwelling units per gross acre less the total area to be used exclusively for commercial or institutional purposes as authorized by this section.
- (6) CD area density. The overall residential density of a CD shall not exceed four dwelling units per gross acre less the total area to be used exclusively for commercial or institutional purposes as authorized by this section.
- (7) Dwelling unit distribution. To assure the construction of a variety of housing types within each PUD or CD, single-family dwelling units or single-family attached dwelling units connected by nonhabitable structures shall comprise a minimum of 25% of the total dwelling units of said district.
- (8) Dwelling unit area. All dwelling units and rooms included therein shall have sufficient floor area to meet the following minimum requirements:
 - (a) Single-family detached and single-family attached dwelling units, connected by nonhabitable structures:
 - [1] Under two stories: 1,000 square feet.
 - [2] Two stories and over: 1,200 square feet.
 - (b) Other single-family attached:
 - [1] One- and two-bedroom units: 800 square feet.
 - [2] Three-bedroom units: 1,000 square feet.
 - [3] Multifamily dwelling units:
 - [a] One-bedroom dwelling units: 650 square feet.
 - [b] Two-bedroom dwelling units: 850 square feet.
 - [c] Three-or-more-bedroom dwelling units: 1,000 square feet.

P. Landscape features and building arrangements.

- (1) The design criteria set forth in this subsection are intended to provide considerable latitude and freedom to encourage variety in the arrangement of the bulk and shape of buildings, open space and landscape features. Dwellings may be arranged in various groups, courts, sequence or clusters with open spaces organized and related to the dwellings so as to provide privacy and to form a unified composition of buildings and space. Although latitude in design is provided and encouraged, the following design conditions shall, however, be assured in any PUD or CD. Yards, building setback and spacing and building height and shape, landscape features and building arrangement shall be designed in a manner to assure:
 - (a) Proper light, air and views for the residents.
 - (b) Safety in the accommodating pedestrian and vehicular circulation and vehicular storage and service.
 - (c) Usability of and convenient access to open space by residents of adjacent dwellings without loss of privacy for the residents of such dwellings.
 - (d) Availability of open land for landscaped features, recreation or other private uses.
 - (e) Privacy between adjacent buildings and intersecting wings of buildings, from streets, parking and recreation areas.
 - (f) The creation of a variety of common open spaces and private areas through the planning of landscape features such as walls, fences, hedges and other features.
- (2) Landscaping. Landscaping plans shall meet the following standards:
 - (a) Landscaping shall provide privacy and screening between uses, with visual, noise and air quality factors considered.
 - (b) Landscaping shall contribute to prevention of water runoff and erosion problems. Temporary or permanent protection shall be provided during construction to prevent such problems.

- (c) Landscape treatment for public and private plazas, roads, paths and service and parking areas shall be designed as an integral part of an entire project and shall combine with walks and street surfaces, and such requirements shall be in lieu of any other village requirement for trees in public street rights-of-way.
 - (d) The area covered by impervious surfaces such as buildings and paved areas must be accompanied by planted areas as well as other features to hold or carry stormwater runoff. Outdoor planted or grassed areas within parking lots must be not less than 5% of the total vehicular area in parking lots designed for 10 cars or more and shall be suitably distributed so as to relieve any unsightliness and monotony of parked cars.
 - (e) Landscape materials shall be appropriate to the growing conditions on the site and the village's environment.
 - (f) Natural features such as streams, rock outcrops, escarpments, marshlands, wetlands, topsoil, trees and shrubs, natural contours and outstanding vegetational, topographical and geological features shall be preserved and incorporated in the open space areas and in the landscaping of the development.
 - (g) Plastic or other types of artificial plantings or vegetation shall not be permitted. Trees shall be planted adjacent to all residential units so as to provide no less than three trees of a minimum two-and-one-half-inch caliper, measured two feet above the ground, per residential unit, including trees previously existent on the site which are preserved. Trees to be planted throughout the district and along the vehicular ways shall include both deciduous and coniferous species in adequate density and design to provide year-round benefit of such plantings.
 - (h) Trees shall be of numerous species as to minimize the impact and spread of disease.
- (3) Aesthetics.
- (a) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance and easily maintained.

- (b) The sides and rear of all buildings shall be designed in such manner as to avoid undue sacrifice of amenity and design values when viewed from side and rear vantage points.
 - (c) Screening. Visual and noise screening devices shall be designed and maintained to serve their intended purposes set forth in this subsection. Artificial planting materials shall not be allowed. Landscape screening should be given priority where effective, easily maintained and botanically feasible. Decorative masonry walls in conjunction with berms and plant materials shall be given consideration.
- Q. Local circulation system. Both vehicular and pedestrian access shall be provided to each dwelling, school, recreation area and commercial area.
 - (1) Vehicular circulation.
 - (a) The vehicular circulation systems and parking facilities shall also be designed to fully accommodate the automobile with safety and efficiency, without allowing it to dominate and destroy the form of the area, with screening and buffering as may be required to satisfy the environmental standards of this section.
 - (b) Dwellings and other buildings shall be served by streets, drives or emergency accessways planned so as to assure access by service and emergency vehicles.
 - (c) Driveways and streets serving group and cluster developments shall be connected to collector and arterial streets at locations where traffic can be controlled and operated effectively and safely with minimum interference to the capacity of the arterial and collector streets, bicycle routes and pedestrianways.
 - (d) Streets may be either private or public.
 - (e) Standards of design and construction for all roads shall meet applicable village standards unless specifically modified as part of the site plan approval. The right-of-way and pavement widths, locations and designs for private ways, roads and alleys shall conform to the planning and engineering practices as determined by the designee of the Village Board, taking into account the estimated needs of the full proposed development.

- (f) There shall be provision of safe bicycling routes throughout the district which may be coincident with pedestrianways, but which shall be separated from the motorized vehicle system wherever feasible.
- (2) Pedestrian circulation.
 - (a) Pedestrianways shall connect residential areas with other residential areas, community facilities, schools, recreational areas, commercial areas and public transportation.
 - (b) The system of pedestrian walks, malls and landscaped spaces shall be of such extent and the elements of such system shall be distributed in location and number so as to assure safety of pedestrians from vehicular traffic and encourage pedestrian travel within such system instead of in vehicular rights-of-way, without restraints imposed by public, private or common ownerships.
 - (c) Major pedestrian walks, malls and public transportation loading places where feasible shall be separated from general vehicle circulation.
 - (d) Landscaped, paved and comfortably graded pedestrian walks shall be provided, particularly from building entrances to adjacent buildings, play areas, parking areas and streets.
 - (e) Sidewalks, pathways and bikeways to be located within a public right-of-way shall meet village standards as to width, location and materials unless specifically modified as a part of the site plan approval.
- R. Topography and site appearance. PUDs or CDs shall be designed to take maximum advantage of the topography of the land in order to utilize the natural contours, to provide for water storage and control of water runoff, to protect natural drainage courses, to economize in the construction of utilities, to reduce the amount of grading and to maximize the conservation of trees and topsoil. Significant natural features and other characteristics of the site shall be preserved and incorporated as distinctive features of the development.
- S. Open space.
 - (1) Defined.

- (a) "Open space" includes:
- [1] Uncovered and unpaved lands or water areas in public, common or other private ownership, except lots under single-family ownership.
 - [2] Lands covered by structures or other improvements may also be deemed to constitute "open space" under the limited conditions specified in this subsection.
 - [3] Large areas of land in a natural state.
 - [4] Areas for active and passive recreation.
 - [5] Parks and large landscaped or wooded areas.
 - [6] Drainage, runoff areas and floodplain areas and areas for stormwater storage and protection of water quality.
 - [7] Connectors between major open space areas.
 - [8] Pedestrian and bicycle circulation systems.
 - [9] Areas for preservation of wildlife, woodlands, wetlands and outstanding natural features, including geologic and topographic.
 - [10] Areas for public or private recreation, public education and community and cultural facilities, when approved by the Village Board.
 - [11] Conservation facilities and areas.
- (b) "Open space" does not include areas covered by roads, buildings, parking areas and driveways, service areas, except for buildings, parts of buildings or parking lots providing natural preservation, recreational or cultural services in conjunction with adjoining open space and school sites.
- (c) As used in this subsection, the term "common open space" shall mean a parcel or parcels of land or an area of water, or a combination of land and water within the site designated for a PUD or CD, privately owned and designed and intended for the use and

enjoyment of two or more households residing in the PUD or CD or in specified portions thereof or other users if permitted by the owners of the common open space. Common open space may contain such structures and improvements as are necessary and appropriate for the benefit and enjoyment of persons served by such common open space.

- (2) Such proposed uses must be appropriate to the scale and character of the new district, considering its size, density, expected population, topography and the number and types of dwelling units.
- (3) The use of a piece of open space land for more than one of these open space uses shall be encouraged, yet a balance of such uses shall be maintained such that, for example, all of the open space shall not be buffers along noisy transportation corridors, but shall include areas suitable for quiet respite.
- (4) Area and location.
 - (a) In any PUD or CD, a minimum of 25% of the total land area, less the amount used exclusively for nonresidential purposes, must be in open space.
 - [1] At least 70% of this total open space shall be in private ownership open to the public or in public or common ownership.
 - [2] Any part of the total open space, either in a natural state or improved as permitted by and meeting the standards of this section, may be offered for dedication or other disposition, without cost to the village or other public entity, for recreation and other open space uses for use by the public and acceptable to the Village Board and other public entity and to the owner and, if accepted, constitutes a credit to Subsection S(4)(a) above. Offers for dedication or other disposition of major open space for public use may be made at any time after approval of the development plan.
 - (b) Any public or common open space shall be located and organized to be readily accessible by foot and bicycle to residential populations served thereby (preferably without their having to cross limited access and arterial roadways). In addition, access and parking for vehicles shall be provided where appropriate.

- (c) The location, condition, size and configuration of the open space must be suitable for its use as contemplated and as proposed in the development plan and/or site plan. Lakes or other water areas may not occupy so large a proportion of the major common open space that other open space and recreational uses cannot be adequately provided for.
- (5) Open space alterations. The continued use of common open space for the purposes contemplated in this subsection shall be assured through appropriate deed restrictions which shall include a provision that such open space use shall not be materially altered or abridged without the approval of the Village Board.
- (6) Physical improvements.
 - (a) Open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved.
 - (b) The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.
- (7) Maintenance of open space.
 - (a) Arrangements must be made for the improvement, operation and maintenance of such common open space and facilities. The developer shall provide for and establish an organization for the ownership, operation and maintenance of common open space.
 - (b) In reviewing the organization for the ownership and maintenance of any common open space, the Planning Board shall consider, in addition to other applicable requirements of this section, the following:
 - [1] The time when the organization is to be created.
 - [2] The mandatory or automatic nature of membership in the organization by residents.

- [3] The permanence of arrangements intended to assure continued use of lands as common open space.
 - [4] The liability of the organization for insurance, taxes and maintenance of all facilities.
 - [5] The provision for pro rata sharing of costs and assessments.
 - [6] The capacity of the organization to administer common facilities.
 - [7] The availability of the open space to residents from areas adjoining the development where requested by the developer.
- (8) Public open space. The standards for the Planning Board's determination whether to recommend Village Board approval of an offer for the dedication or other disposition to the village or other public entity of public open space lands shall, without excluding any other applicable requirements of this section, include the following:
- (a) The need for public open space in the PUD or CD. In determining the manner of public ownership, the usage by the village outside the PUD or CD shall be considered.
 - (b) The potential for an open space connection with other public open space areas.
 - (c) The desirability of public access due to the special physical and biological characteristics of the area which make it suitable for public open space uses.
 - (d) The desirability of public acquisition of floodways, drainageways and areas subject to flooding for water management and recreational uses.
 - (e) Review and acceptability of covenants or similar provisions proposed for inclusion in dedication instrument, intended to assure that public use remains consistent with the objectives of the development plan and site plan.
- T. Perimeter treatment. The design of improvements and landscaping along the boundaries of a PUD or CD should be visually harmonious and functionally

compatible with adjoining developments. Extensive parking areas, service areas and other features likely to have adverse effects on surrounding property (due, e.g., to adverse views, lights, noise) shall be screened against viewing from first stories both inside and outside the district. Screening shall also be provided to protect against lights, noise or other undesirable conditions in the surroundings.

- U. Utilities. New public and private utilities and those relocated or replaced shall be entirely underground.
- V. Off-street parking and loading. The design criteria set forth in this subsection are intended to provide desirable latitude and freedom to encourage variety in the location arrangement and type of uses, to encourage convenience in accessibility to these uses through provisions of pedestrian and bicycle pathways and public transportation services and to achieve the efficient sharing of parking and loading facilities by multiple uses. Therefore, in lieu of specific minimum parking and loading requirements and other similar considerations, the following performance standards shall apply:
 - (1) Parking facilities shall be landscaped and screened to minimize unsightliness and monotony of parked cars.
 - (2) Pedestrian connections between parking areas and buildings shall be along walkways to the extent necessary to assure pedestrian safety.
 - (3) Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping and ease of access and shall be developed as an integral part of an overall site design.
 - (4) Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness and should be separate from private vehicles and pedestrians where feasible.
 - (5) The design of buildings and parking facilities shall take advantage of the topography of the site where appropriate to provide separate levels of access.
 - (6) Parking areas in all use areas except open space shall meet the requirements of the Village Code.
 - (7) Off-street parking and loading spaces shall be provided for all new buildings at the time of erection and for all enlargements of existing buildings and shall be maintained in usable shape and good condition.

- (8) Off-street parking and loading spaces shall be provided so as to prevent overflow of parked or standing vehicles onto public or common vehicular or pedestrian rights-of-way.

W. Signs.

- (1) Freestanding signs in a PUD or CD shall be limited to traffic and pedestrian directional and control signs, street signs and signs identifying the development.
- (2) One identification sign shall be permitted for each nonresidential use, identifying the use on the premises as permitted on the site plan, of not more than 20 square feet, not projecting beyond the building to which it is attached more than 12 inches and not projecting more than 10 feet in height above grade.
- (3) Any illuminated sign visible from any public street or from adjoining property used for residential purposes shall be so shaded, shielded, directed or maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighboring premises nor the safe vision of operators of vehicles moving on public roads or highways.
- (4) Signs shall be designed as an integral part of a comprehensive site and landscape plan, which shall include a sign system specifying the general type, design, size and location of all signs and all sign controls to be instituted by the developer.

X. Enclosure and residential outside storage.

- (1) All permitted principal and accessory uses and operations which, as a result of not being enclosed, would constitute a nuisance or offense beyond the lot line or which as a result of not being enclosed would conflict with any of the specific performance standards set forth in this subsection shall be performed wholly within an enclosed building or buildings.
- (2) Outside storage or parking of commercial or recreation vehicles, camper bodies, boats and trailers on lands occupied for residential purposes shall be prohibited.

Y. Other provisions. Except for the definitions contained therein, no other procedural or substantive provision of any other section of the this chapter shall apply to the establishment of or development within a PUD or CD.

§ 210-26. Condominiums and cooperatives.

- A. Intent. The intent of this section is to promote greater flexibility and consequently more creative and imaginative design for the development of residential areas; to meet the growing demand for housing by greater variety and type, design and setting of dwellings; to encourage conservation and more efficient use of land in such developments and maintenance of high environmental quality throughout the development; to provide for the utilization of planning criteria in the arrangements of buildings related to common open space; and to utilize topography and other site features to their best advantage to obtain creative and coordinated designs.
- B. Application and procedures.
- (1) Initiation of proceedings. Proceedings to create condominiums and/or cooperatives may be initiated either by the Village Board or by application of the owner, as defined in § 210-25D(3)(a)[2]. Accordingly, the provisions of Subsections B(2) and B(3)(a) are applicable only to proceedings initiated upon application of the owner or owners of the proposed condominium and/or cooperative site.
 - (2) Preapplication conference. To obtain information, each applicant shall confer with the Planning Board and interested department heads in connection with the preparation of the condominium and/or cooperative application. It shall be the responsibility of the Planning Board to contact and invite these department heads to a joint meeting. The applicant shall submit a concept plan showing the proposed location and components of the condominium and/or cooperative. Thereafter, the Planning Board shall furnish the applicant with its written comments regarding such conference, including appropriate recommendations and information concerning the procedure and criteria for approval to inform and assist the applicant prior to his or her preparing the components of the condominium and/or cooperative application.
 - (3) Application for development plan approval. Formal application for the condominium and/or cooperative shall be initiated by filing 10 copies of the information enumerated below with the Village Clerk and paying the required fee⁹.
 - (a) Documents; developmental plan and supporting maps. The development plan must be to a scale not greater than one inch equals 200 feet, although it need not be to the precision of finished

⁹ Editor's Note: See Ch. A220, Fees.

engineering drawings, and must show the major details of the condominiums and/or cooperatives and contain the following minimum information, unless waived by the Planning Board as not being applicable:

- [1] The existing site conditions, including property lines, contours at five-foot intervals, watercourses, including drainage ditches in the village storm drainage system floodplains areas subject to flooding at the one-hundred-year frequency, unique natural features, wetlands, tree cover, soil information and evaluation for the uses proposed.
- [2] The proposed land use arrangement and acres by use.
- [3] The location and type of all existing structures.
- [4] The location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common open spaces, public parks, recreational areas, school sites and similar public and semipublic uses, including pathways, drainage ditches and water storage areas.
- [5] The existing and proposed vehicular circulation system, showing major points of access to public rights-of-way, including major points of ingress and egress to the development. Notations of proposed ownership, public or private, should be included where appropriate.
- [6] The existing and proposed bikeway and pathway circulation system, including its interrelationships with the vehicular circulation system.
- [7] The existing and proposed major storm drainage system, to include:
 - [a] The direction and quantity of flow.
 - [b] The location of major existing and proposed storm sewers and drainageways.
 - [c] A description of stormwater storage and movement features.

- [d] Treatment of floodways and drainageways.
- [e] Treatment thereof with the rest of the village.
- [8] The existing and proposed sanitary sewage disposal system serving the development, including its projected load and the effect the load will have on the existing and proposed village disposal system.
- [9] Existing and proposed waterlines and linkages with the village system and the effect the demand therefrom will have on the existing and proposed water supply system.
- [10] Information on land areas for 500 feet beyond the perimeter of the proposed development, showing the relationships between the proposed development, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.
- [11] The proposed treatment of the buffer zone of the development.
- [12] Sketches or pictorial representation of typical structures sufficient to relay the basic architectural intent of the proposed improvements, but need not be encumbered with final detail.

C. Planning Board Review/Zoning Board of Appeals Review.

- (1) Upon receipt of a proposed development plan for condominiums and/or cooperatives, the Village Clerk shall transmit a copy of the plan and accompanying documentation to the Village Engineer, the Superintendent of Public Works, the school district and such other agencies as he or she may deem appropriate for their review, report and recommendation. Such officials and agencies shall each, within 62 days from receiving the development plan and supporting documents, furnish to the Planning Board a report pertinent to their respective jurisdictions.
- (2) The Planning Board shall review the development plan and related documents and evaluate the reports enumerated above. Within 62 days following the submission of the development plan and data to the Planning Board, the Planning Board shall furnish to the Zoning Board of Appeals and

the applicant, if any, either its finding that the development plan complies with the regulations, standards and criteria prescribed by this chapter or a finding of any failure of such compliance and recommendation that the development plan be approved, disapproved or modified.

- (3) If in any such evaluation the Planning Board finds that any submission requirements, regulations, standards or criteria prescribed by this chapter are inapplicable because of unusual conditions of the planned residential development or the nature and quality of the proposed design, it may recommend to the Village Board that an adjustment in such regulations, standards or criteria be made for the development or a proposed site in the development.
- (4) Upon completion of the Planning Board review and submission of a report, whether favorable or unfavorable, the Zoning Board of Appeals shall review the development plan and related documents and evaluate their reports enumerated above. Within 62 days following the submission of the development plan and data to the Zoning Board of Appeals, the Zoning Board of Appeals shall furnish to the Village Board and the applicant, if any, either its finding that the development plan complies with the regulations, standards and criteria prescribed by this chapter and regulations or a finding of any failure of such compliance and recommendation that the development plan be approved, disapproved or modified.
- (5) If in any such evaluation the Zoning Board of Appeals finds that submission requirements, regulations, standards or criteria prescribed by this regulation are inapplicable because of unusual conditions of the condominiums and cooperatives or the nature and quality of the proposed design, it may recommend to the Village Board that an adjustment in such regulations, standards or criteria be made for the development or a proposed site in the development.
- (6) Favorable report. A favorable report shall include a recommendation to the Village Board that a public hearing be held for the purpose of considering the creation of the development. It shall be based on the following findings, which shall be included as part of the report:
 - (a) The proposed development plan meets the intent and objectives of condominiums and/or cooperatives as expressed in Subsections A hereof.
 - (b) The proposed development plan meets all the requirements of Subsection M hereof.

- (c) There are adequate services and utilities available or proposed to be made available for the construction of the development.
 - (d) The proposed development plan is consistent with the objectives of the Village of Alden's Comprehensive Plan.
 - (7) Unfavorable report. An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what changes are necessary in order to receive a favorable report. The applicant may, within 30 days after receiving an unfavorable report, file an application with the Village Clerk for a hearing. The Village Board then shall hold a public hearing for the development and shall render a decision within 62 days after the hearing on such application.
- D. Village Board action; public hearing and decision. The Village Board shall take action:
 - (1) Upon receiving a favorable report from the Planning Board and/or the Zoning Board of Appeals or an application following an unfavorable report as described in Subsection C(7); or
 - (2) At any time following the submission of a proposed development plan meeting the applicable requirements of Subsection B hereof by the Planning Board in the case of proceedings on the Village Board's initiative, the Village Board shall set a date for a public hearing for the purpose of considering the creation of condominiums and/or cooperatives in accordance with the procedures established under this chapter, the Village Law or other applicable law. The Village Board shall hold a public hearing and render a decision within 62 days following the hearing. The published notice of any public hearing scheduled to consider the creation of condominiums and/or cooperatives shall state that the proposed development plan, with a list of all property ownerships within the district (listed by house number, name of owner, street name and tax number), and a map of the proposed district, showing proposed use classification areas and property lines of all parcels included in district areas, are available for public examination in the office of the Village Clerk prior to the hearing and thereafter until such time as the Village Board shall act to approve or disapprove the creation of the district and shall describe any adjustments in any regulations, standard or criteria of this chapter proposal pursuant to Subsection C(3) hereof.
- E. Zoning.

- (1) The determination by the Village Board of whether to create condominiums and/or cooperatives or adjust any regulation, standards or criteria of this chapter shall be based on its review of the proposed development plan, the report of the Planning Board and any matters brought forth at the hearing and approval or rejection of a development plan where the Village Board has acted on its own initiative. Such approval shall include the making of the findings specified in Subsection C(4). Upon the creation of condominiums and/or cooperatives in such a manner, the Zoning Map¹⁰ shall be notated. The Village Board may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its zoning resolution additional conditions or requirements consistent with the intent and objectives of this section for the applicant to meet. If such additional conditions or requirements are proposed, the applicant shall be given notice, in writing, of such additional conditions or requirements at least 15 days prior to the creation of the condominiums and/or cooperatives, and the Zoning Map shall not be amended until the applicant has filed with the Village Clerk written consent to the development plan as modified.
 - (2) Amending the Zoning Map¹¹ to indicate condominiums and/or cooperatives does not constitute recording of a subdivision plat nor authorize the issuance of building permits. Such actions can only be taken after approval of the site plan.
- F. Amendment of development plan. A development plan amendment (other than as provided in Subsection J hereof) may be initiated in the same manner as provided in Subsection B(3) hereof. The application shall be filed with the Village Clerk, accompanied by such supporting material as may be necessary to enable the Planning Board and the Village Board to review the request for amendment except as hereinafter provided. Review of and action upon the request by the Planning Board and the Village Board shall comply with the requirements of Subsections C through E hereof. A public hearing thereon shall only be required if the amendment contemplates a change in the provisions of this section or in the boundaries of the condominiums and/or cooperatives or a change in a use classification of the development plan.
- G. Application of site plan approval. Application for site plan approval shall be to the Planning Board and may include all or a portion of the area included in condominiums and/or cooperatives. The information required by this subsection shall be furnished with respect to the entire condominium and/or cooperative and

¹⁰ Editor's Note: The Official Zoning Map is on file in the village offices.

¹¹ Editor's Note: The Official Zoning Map is on file in the village offices.

shall be submitted at or before the first site plan application. The application shall be accompanied by 10 copies of the following information required for entire condominiums and cooperatives, prepared by a New York State licensed lawyer, engineer, surveyor, architect or landscape architect, as appropriate, and payment of the required review fee. Information required for entire condominiums and/or cooperatives shall include:

- (1) A detailed breakdown of total open space by uses and as to how it is to be owned and maintained, showing that the criteria of Subsection Q hereof are met.
- (2) A development schedule indicating when construction of the site(s) can be expected to begin and be completed and showing that the phasing criteria of Subsection L(1) hereof are met.
- (3) Total land and/or building area to be used for nonresidential purposes by category.
- (4) A plan or program indicating provisions for management and protection of existing topographic features, soil, water, woodlands, wetlands, marshlands, grasslands and wildlife resources.
- (5) Materials and treatment proposed to be used for the perimeter of the condominiums and/or cooperatives.
- (6) Area map. An area map showing the entire condominiums and/or cooperatives and the proposed site area.
- (7) Site plan. A plan of the site area, including the following information:
 - (a) The title of the drawing, including the name of the development, the name of applicant and the person who prepared the drawing.
 - (b) North point, the scale and the date.
 - (c) The topography at one-foot contour intervals.
 - (d) The boundaries of the proposed site area and its acreage.
 - (e) The lines of existing and proposed streets and bicycle or pedestrian ways within, connecting to and immediately adjoining the proposed site and the names of all proposed streets. No street name

change shall be made following site plan approval unless approved by the Planning Board.

- (f) The layout of proposed property and lot lines, including property which is to be offered for dedication or other disposition for public ownership and use with the purpose indicated, and property that is proposed to be reserved by deed covenant for common use.
- (g) The location, proposed use, floor area and height of all buildings and the location of all parking and service areas with access drives.
- (h) The location and proposed development of all open spaces, including parks, playgrounds and open reservations.
- (i) Existing and proposed wet and dry watercourses and the direction of flow.
- (j) The location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; a description of the method of water supply and sewage disposal and the capacity and location of such facilities; and the location of fire hydrants.
- (k) The use and proposed use of all adjacent property, including elevations within 25 feet of perimeters.
- (l) The location, size, materials, color and design of lighting facilities, signs and monuments.
- (m) A tracing overlay showing all soil areas and their stratification and those areas, if any, with moderate to high susceptibility to ponding or flooding and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and the program to be undertaken to correct potential erosion problems.
- (n) Provisions for all stormwater management, including but not limited to the location and type of floodproofing measures where needed, retention areas, open stormwater facilities and underground tiled drainage, as well as drainage channels, both proposed and to remain, including data of gradients of the new system relative to existing facilities and a time schedule for the provision of such facilities. This shall include all ditches, swales,

ponds and like facilities, including the acre-feet and/or cubic-foot-per-second (cfs) capacity of such facilities where applicable. Such facilities shall provide, by the combination of storage and/or improved stream flow, completely for the stormwater on the proposed site plan area and shall provide the land or other facilities necessary to permit water movement from adjacent properties. To meet this requirement, such facilities may be augmented by appropriate facilities located outside the development area which are committed to be in service upon the completion of the development described by the site plan.

(8) Planting plan.

- (a) A planting plan pursuant to the requirements as set forth by the Planning Board shall indicate the location of trees and other materials planted and of existing trees and other materials to be preserved or those to be removed and information regarding the preservation or creation of unique natural areas, grasslands, wetlands, marshlands and wildlife resources.
- (b) In cases where the Planning Board finds that due to the size, topography or location of the condominiums and/or cooperatives, land for a park, playground or other recreational purposes cannot be properly located therein or if, in the opinion of the Board, it is not desirable, the Board may waive the requirement that the plans show land for such purposes.

(9) Public improvement plans. Prior to the granting of a village permit for public improvements, preliminary construction plans and specifications for all public improvements, including construction detail sheets which shall show the following information:

- (a) Preliminary profiles showing existing and proposed elevations along the center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets, within 100 feet of the intersection, shall be shown. All elevations must be referenced to established United States government or approved local bench marks where they exist within 1/2 mile of the boundary of the site plan area.
- (b) Preliminary plans and profiles showing the locations and a typical cross section of street pavements, including curbs and gutters,

sidewalks, manholes and catch basins; the location of street trees, streetlighting standards and street signs; the locations, size and invert elevations of existing and proposed waterlines, sanitary sewers, stormwater drains and fire hydrants; and the location and size of all underground utilities or structures.

- (10) Building plans. Construction drawings in sufficient detail to permit review and approval under the Village Building Code.¹²
 - (11) Covenants. The proposed forms of covenant running with the land, deed restrictions (including those with respect to the use of the common land); covenants, restrictions or easements proposed to be recorded; and covenants proposed for maintenance.
 - (12) Development schedule. An updated development schedule covering the site plan area. The schedule shall include the improvement of open space, the construction of buildings and structures in the open space and the construction of other improvements in the site plan area and the proposed coordination of such activities.
- H. Site plan review. Review of the site plan shall be designed to ensure that the detailed planning for a development area is in substantial conformance with the objectives of this section and the development plan and shall be based upon consideration of the following factors:
- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structure and traffic control.
 - (2) Adequacy and arrangement of pedestrian traffic access, walkway structures and control of intersections with vehicular traffic and pedestrian convenience.
 - (3) The location, arrangement, appearances and sufficiency of off-street parking and loading.
 - (4) The location, arrangement, size and design of buildings, lighting, signs and monuments.
 - (5) The conformance of improvement plans with village specifications and the conformance of building plans to applicable village codes.

¹² Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

- (6) The relation of the various uses to one another and their scale.
- (7) The adequacy of usable space for active and passive recreation.
- (8) The adequacy of existing and proposed facilities for sanitary waste disposal and stormwater storage and disposal, including drainage channels, ponds and water storage in relation to location in the watershed.
- (9) The adequacy of open space lands for public ownership and use offered for dedication or other disposition to the village or other public entity.
- (10) The adequacy of structures, roadways, utilities and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion.
- (11) The adequacy of school sites and facilities to serve the condominiums and/or cooperatives.
- (12) The adequacy of other existing public facilities and services to serve projected needs of the condominiums and/or cooperatives.
- (13) The capacity of other proposed public facilities to serve uses located within the appropriate service areas of such facilities.
- (14) The protection of adjacent properties against noise, glare, unsightliness or other objectionable features; and the adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer or weather buffer between adjacent uses and adjoining lands.

I. Planning Board action on site plan application.

- (1) Within 62 days of the receipt of the application for site plan approval, the Planning Board shall act on it and notify the Village Board and the applicant of its action. In determining its action, the Planning Board shall seek advice and assistance from the Village Attorney with respect to all covenants, restrictions and easements to be recorded and covenants for maintenance; the Village Engineer and the Superintendent of Public Works with respect to improvement plans; the Village Building Inspector with respect to building plans; and any other persons or committees.
- (2) If, in its review of the site plan, the Planning Board finds that any regulations, standards or criteria prescribed by this section are inapplicable

because of unusual or unforeseen conditions affecting the proposed site plan development or because of the nature or quality of the proposed design, it may recommend to the Village Board that an adjustment be made in such regulations, standards or criteria consistent with the purposes of this section as applied to the proposed site plan development. The Village Board also may allow such adjustments upon its own initiative.

- (3) The Planning Board's report shall state whether or not the site plan is approved and shall include a detailed statement of the basis for any Planning Board determination of noncompliance with any substantive criterion, standard or regulation of this section. In such case, the Planning Board may recommend further study of the site plan after it has been revised or redesigned.
- (4) A copy of such report shall be immediately filed with the Village Clerk and delivered to the applicant following such approval or disapproval of the site plan.
- (5) When the Planning Board disapproves a site plan, it will be sent to the Village Board for final action only on the written request of the applicant.

J. Conformity to development plan.

- (1) It is expected that the site plan will be in conformance with the goals and objectives of the development plan approved by the Village Board. However, if in preparing the site plan it becomes apparent that certain elements of the development plan, as it was approved by the Village Board, were unfeasible and in need of significant modification or have become so since such approval, the applicant may incorporate said modifications in the site plan. The Planning Board shall then determine whether the modified site plan is in keeping with the intent of this section. The Planning Board, as part of its report referred to in Subsection I above, shall notify the Village Board and the applicant of its recommendation in such regard, stating all of the factors involved and its reasons for recommending approval or disapproval of any such modifications.
- (2) All such site plans shall be both prepared and signed by a New York State licensed professional engineer who shall so verify conformity of the site plan to the development plan.

K. Village Board action.

- (1) Within 62 days of receiving an application, the Village Board shall either approve or disapprove the site plan. The basis for such a decision shall be the conformance of the site plan to the approved or modified development plan, to other applicable village ordinances and to the objectives of the community development plan and this section.
- (2) If the Village Board determines that a site plan does not comply with any substantive criterion, standard or regulation of this section, then the record of such determination shall be delivered to the applicant, including a separate statement setting forth in detail the exact nature of such noncompliance and all factors included in the basis for the Village Board's determination.
- (3) The applicant shall be afforded a reasonable opportunity, on one or more occasions as circumstances require, to appear before the Village Board and/or the Planning Board on reasonable notice to present his or hers position concerning compliance of the proposed site plan with the substantive criteria, standards and regulations of this section.
- (4) The Village Board may require the issuance of a performance bond on all or part of any such condominium and/or cooperative or make such other requirements as deemed necessary.
- (5) In no event may an applicant commence any development until such time as final approval is issued.
- (6) In the event that an applicant does not complete any such development, the Village Board, in its discretion, may, in addition to the retention of the performance bond, require that the applicant return the site to the original condition prior to the commencement of the development.

L. Other regulations applicable to condominium or cooperative districts.

- (1) Development phasing. If the development is to be implemented in phases, each phase must have adequate provision for access, parking, open space, recreation areas and stormwater management and other public improvements to serve the development in accordance with the applicable criteria set forth for condominiums and/or cooperatives in the event that other phases are not constructed. Where the overall development of an entire condominiums and/or cooperatives site will require more than 24 months to complete, such development shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features,

buffers or protective areas in order to prevent damage to completed phases, to future phases and to adjoining property.

- (2) Subdivision review. Site plan review under the provisions of this chapter shall suffice for Planning Board and Village Board review and approval of subdivisions, subject to the following conditions:
 - (a) The condominiums and/or cooperatives shall be platted as a subdivision; however, if this is being developed in stages, it may be platted and filed in corresponding components.
 - (b) The applicant shall prepare sets of subdivision plats suitable for filing with the office of the Erie County Clerk in addition to the drawings required above. Subdivision plats shall be approved by the Planning Board prior to certification by the Village Clerk and recording by the Erie County Clerk's office.
 - (3) Regulation after initial construction and occupancy. For the purposes of regulating the development and use of property after completion of initial construction and occupancy, all use changes shall be based upon a special permit granted by the Village Board after receiving a recommendation from the Planning Board.
 - (4) Changes in site plan.
 - (a) If, subsequent to the approval of a site plan by the Village Board, the applicant proposes any modification (other than to correct minor or technical omissions or inaccuracies) of the site plan, the procedures set forth in Subsections G and H of this section shall be applicable to such modification, except that the materials submitted to the Planning Board and the Village Board shall relate only to such modification.
 - (b) At any time within 40 days following the initial site plan submission to the Planning Board, the applicant may submit to the Planning Board modifications which do not materially affect the fundamental character of a proposed site plan, and the time periods stated herein shall continue to apply.
 - (5) Commencement of construction. No construction or site improvement work may commence until site plan approval has been granted.
- M. Permitted uses; criteria; standards and regulations. Uses, criteria, standards and regulations are hereby established with respect to planning of land and the

arrangements of buildings and open spaces for those areas which are included in a condominium and/or cooperative and which require development and site plan approval. The application of the criteria, uses, standards and regulations set forth in this section are intended to result in the optimum development and use of land in the village. They are intended to ensure full consideration of every planning element pertinent to the objectives of this section and the community development plan.

- (1) Minimum area. The minimum area required to qualify for a condominium and/or cooperative shall be 7 1/2 contiguous acres of land. This requirement shall not apply to boundary change amendments under Subsection F above. For purposes of this subsection, lands separated by streams or drainage courses, highways, streets or other public rights-of-way shall be deemed contiguous. Boundaries should assume reasonably regular configurations, taking advantage of natural features, public rights-of-way and other clearly defined features as outer perimeters in order to facilitate buffering between the PUD and CD and adjacent areas and in order to minimize the development obstacles created by sharply irregular boundaries resulting from noncontiguous ownership patterns.
- (2) Maximum area shall be 50 acres.
- (3) Accessory building uses.
 - (a) Private garages and parking areas for the use of guests.
 - (b) Gardens, fences, walls, pools and other recreation facilities on private or common land.
 - (c) Vehicular, pedestrian and bicycle circulation systems.
 - (d) Storage yards and open equipment structures compatible with the above uses and suitably screened, fenced and buffered from adjacent uses in accordance with the performance standards hereof. Storage yards for house trailers, boats and similar equipment and for open-space maintenance equipment are included in this classification.
 - (e) Other accessory buildings and uses consistent with the intent, objectives and criteria of this section.
- (4) Similar main uses. Uses not specifically enumerated above may be permitted by the Village Board if determined to be similar to and

compatible with uses permitted hereunder and in accordance with the standards and criteria hereof.

- (5) Dwelling unit area. All dwelling units and rooms included therein shall have sufficient floor area to meet the following minimum requirements:
 - (a) Single-family detached and single-family attached dwelling units, connected by nonhabitable structures.
 - (b) Other single-family attached.
 - [1] One- and two-bedroom units: 800 square feet.
 - [2] Three-bedroom units: 1,000 square feet.

N. Landscape features and building arrangements.

- (1) The design criteria set forth in this subsection are intended to provide considerable latitude and freedom to encourage variety in the arrangement of the bulk and shape of buildings, open space and landscape features. Dwellings may be arranged in various groups, courts, sequence or clusters with open spaces organized and related to the dwellings so as to provide privacy and to form a unified composition of buildings and space. Although latitude in design is provided and encouraged, the following design conditions shall, however, be assured in any condominiums and/or cooperatives. Yards, building setback and spacing and building height and shape, landscape features and building arrangement shall be designed in a manner to assure:
 - (a) Proper light, air and views for the residents.
 - (b) Safety in the accommodating pedestrian and vehicular circulation and vehicular storage and service.
 - (c) Usability of and convenient access to open space by residents of adjacent dwellings without loss of privacy for the residents of such dwellings.
 - (d) Availability of open land for landscaped features or recreation or other private uses.
 - (e) Privacy between adjacent buildings and intersecting wings of buildings from streets, parking and recreation areas.

- (f) The creation of a variety of common open spaces and private areas through the planning of landscape features such as walls, fences, hedges and other features.
- (2) Landscaping. Landscaping plans shall meet the following standards:
 - (a) Landscaping shall provide privacy and screening between uses, with visual, noise and air quality factors considered.
 - (b) Landscaping shall contribute to the prevention of water runoff and erosion problems. Temporary or permanent protection shall be provided during construction to prevent such problems.
 - (c) Landscape treatment for public and private plazas, roads, paths, service and parking areas shall be designed as an integral part of an entire project and shall combine with walks and street surfaces, and such requirements shall be in lieu of any other village requirement for trees in public street rights-of-way.
 - (d) The area covered by impervious surfaces such as buildings and paved areas must be accompanied by planted areas as well as other features to hold or carry stormwater runoff. Outdoor planted or grassed areas within parking lots must be not less than 5% of the total vehicular area in parking lots designed for 10 cars or more and shall be suitably distributed so as to relieve any unsightliness and monotony of parked cars.
 - (e) Landscape materials shall be appropriate to the growing conditions on the site and the village's environment.
 - (f) Natural features such as streams, rock outcrops, escarpments, marshlands, wetlands, topsoil, trees and shrubs, natural contours and outstanding vegetational, topographical and geological features shall be preserved and incorporated in the open space areas and in the landscaping of the development.
 - (g) Plastic or other types of artificial plantings or vegetation shall not be permitted. Trees shall be planted adjacent to all residential units so as to provide no less than three trees of a minimum two-and-one-half-inch caliper, measured six inches above the ground, per residential unit, including trees previously existent on the site which are preserved. Trees to be planted throughout the district and along the vehicular ways shall include both deciduous and

coniferous species in adequate density and design to provide year-round benefit of such plantings.

- (h) Trees shall be of numerous species as to minimize the impact and spread of disease.

(3) Aesthetics.

- (a) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance and easily maintained.
- (b) The sides and rear of all buildings shall be designed in such manner as to avoid undue sacrifice of amenity and design values when viewed from side and rear vantage points.

- (4) Screening. Visual and noise screening devices shall be designed and maintained to serve their intended purposes set forth in this section. Artificial planting materials shall not be allowed. Landscape screening should be given priority where effective, easily maintained and botanically feasible. Decorative masonry walls in conjunction with berms and plant materials shall be encouraged.

O. Local circulation system. Both vehicular and pedestrian access shall be provided to each dwelling, school, recreation area and commercial area.

(1) Vehicular circulation.

- (a) The vehicular circulation systems and parking facilities shall also be designed to fully accommodate the automobile with safety and efficiency, without allowing it to dominate and destroy the form of the area, with screening and buffering as may be required to satisfy the environmental standards of this section.
- (b) Dwellings and other buildings shall be served by streets, drives or emergency accessways planned so as to assure access by service and emergency vehicles.
- (c) Driveways and streets serving group and cluster developments shall be connected to collector and arterial streets at locations where traffic can be controlled and operated effectively and safely with minimum interference to the capacity of the arterial and collector streets, bicycle routes and pedestrianways.

- (d) Streets may be either private or public.
 - (e) Standards of design and construction for all roads shall meet applicable village standards unless specifically modified as part of the site plan approval. The right-of-way and pavement widths, locations and designs for private ways, roads and alleys shall conform to the planning and engineering practices as determined by the designee of the Village Board, taking into account the estimated needs of the full proposed development.
 - (f) There shall be provision of safe bicycling routes throughout the district which may be coincident with pedestrianways but which shall be separated from the motorized vehicle system wherever feasible.
- (2) Pedestrian circulation.
- (a) Pedestrianways shall connect residential areas with other residential areas, community facilities, schools, recreational areas, commercial areas and public transportation.
 - (b) The system of pedestrian walks, malls and landscaped spaces shall be of such extent and the elements of such system shall be distributed in location and number so as to assure safety of pedestrians from vehicular traffic and encourage pedestrian travel within such system instead of in vehicular rights-of-way, without restraints imposed by public, private or common ownerships.
 - (c) Major pedestrian walks, malls and public transportation loading places where feasible shall be separated from general vehicle circulation.
 - (d) Landscaped, paved and comfortably graded pedestrian walks shall be provided, particularly from building entrances to adjacent buildings, play areas, parking areas and streets.
 - (e) Sidewalks, pathways and bikeways to be located within a public right-of-way shall meet village standards as to width, location and materials unless specifically modified as a part of the site plan approval.

- P. Topography and site appearance. Condominiums and/or cooperatives shall be designed to take maximum advantage of the topography of the land in order to utilize the natural contours, to provide for water storage and control of water runoff, to protect natural drainage courses, to economize in the construction of utilities, to reduce the amount of grading and to maximize the conservation of trees and topsoil. Significant natural features and other characteristics of the site shall be preserved and incorporated as distinctive features of the development.
- Q. Open space.

(1) Defined.

(a) "Open space" includes:

- [1] Uncovered and unpaved lands or water areas in public, common or other private ownership, except lots under single-family ownership.
- [2] Lands covered by structures or other improvements may also be deemed to constitute "open space" under the limited conditions specified in this section.
- [3] Large areas of land in a natural state.
- [4] Areas for active and passive recreation.
- [5] Parks and large landscaped or wooded areas.
- [6] Drainage, runoff areas and floodplain areas and areas for stormwater storage and protection of water quality.
- [7] Connectors between major open space areas.
- [8] Pedestrian and bicycle circulation systems.
- [9] Areas for preservation of wildlife, woodlands, wetlands and outstanding natural features, including geologic and topographic.
- [10] Areas for public or private recreation, public education and community and cultural facilities, when approved by the Village Board.
- [11] Conservation facilities and areas.

- (b) "Open space" does not include areas covered by roads, buildings, parking areas and driveways, service areas, except for buildings, parts of buildings or parking lots providing natural preservation, recreational or cultural services in conjunction with adjoining open space and school sites.
 - (c) As used in this section, the term "common open space" shall mean a parcel or parcels of land or an area of water, or a combination of land and water within the site designated for condominiums and/or cooperatives, privately owned and designed and intended for the use and enjoyment of two or more households residing in the condominiums and/or cooperatives or in specified portions thereof or other users if permitted by the owners of the common open space. Common open space may contain such structures and improvements as are necessary and appropriate for the benefit and enjoyment of persons served by such common open space.
- (2) Such proposed uses must be appropriate to the scale and character of the new district, considering its size, density, expected population, topography and the number and types of dwelling units.
- (3) The use of a piece of open space land for more than one of these open space uses shall be encouraged, yet a balance of such uses shall be maintained such that, for example, all of the open space shall not be buffers along noisy transportation corridors, but shall include areas suitable for quiet respite.
- (4) Open space alterations. The continued use of common open space for the purposes contemplated in this subsection shall be assured through appropriate deed restrictions which shall include a provision that such open space use shall not be materially altered or abridged without the approval of the Village Board.
- (5) Physical improvements.
 - (a) Open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved.
 - (b) The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and

enhance the amenities of the common open space with regard to its topography and unimproved condition.

(6) Maintenance of open space.

(a) Arrangements must be made for the improvement, operation and maintenance of such common open space and facilities. The developer shall provide for and establish an organization for the ownership, operation and maintenance of common open space.

(b) In reviewing the organization for the ownership and maintenance of any common open space, the Planning Board shall consider, in addition to other applicable requirements of this section, the following:

[1] The time when the organization is to be created.

[2] The mandatory or automatic nature of membership in the organization by residents.

[3] The permanence of arrangements intended to assure continued use of lands as common open space.

[4] The liability of the organization for insurance, taxes and maintenance of all facilities.

[5] The provision for pro rata sharing of costs and assessments.

[6] The capacity of the organization to administer common facilities.

[7] The availability of the open space to residents from areas adjoining the development where requested by the developer.

R. Perimeter treatment. The design of improvements and landscaping along the boundaries of condominiums and/or cooperatives should be visually harmonious and functionally compatible with adjoining development. Extensive parking areas, service areas and other features likely to have adverse effects on surrounding property (due, e.g., to adverse views, lights, noise) shall be screened against viewing from first stories both inside and outside the district. Screening shall also

be provided to protect against lights, noise or other undesirable conditions in the surroundings.

- S. Utilities. New public and private utilities and those relocated or replaced shall be entirely underground.
- T. Off-street parking and loading. The design criteria set forth in this section are intended to provide desirable latitude and freedom to encourage variety in the location arrangement and type of uses, to encourage convenience in accessibility to these uses through provision of pedestrian and bicycle pathways and public transportation services and to achieve the efficient sharing of parking and loading facilities by multiple uses. Therefore, in lieu of specific minimum parking and loading requirements and other similar considerations, the following performance standards shall apply:
 - (1) Parking facilities shall be landscaped and screened to minimize unsightliness and monotony of parked cars.
 - (2) Pedestrian connection between parking areas and buildings shall be along walkways to the extent necessary to assure pedestrian safety.
 - (3) Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping and ease of access and shall be developed as an integral part of an overall site design.
 - (4) Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness and should be separate from private vehicles and pedestrians where feasible.
 - (5) The design of buildings and parking facilities shall take advantage of the topography of the site where appropriate to provide separate levels of access.
 - (6) Parking areas in all use areas except open space shall meet the requirements of the Village Code.
 - (7) Off-street parking and loading spaces shall be provided for all new buildings at the time of erection and for all enlargements of existing buildings and shall be maintained in usable shape and good condition.
 - (8) Off-street parking and loading spaces shall be provided so as to prevent overflow of parked or standing vehicles onto public or common vehicular or pedestrian rights-of-way.

U. Signs.

- (1) Freestanding signs in condominiums and/or cooperatives shall be limited to traffic and pedestrian directional and control signs, street signs and signs identifying the development.
- (2) One identification sign shall be permitted for each nonresidential use, identifying the use on the premises as permitted on the site plan, of not more than 20 square feet, not projecting beyond the building to which it is attached more than 12 inches and not projecting more than 10 feet in height above grade.
- (3) Any illuminated sign visible from any public street or from adjoining property used for residential purposes shall be so shaded, shielded, directed or maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighboring premises nor the safe vision of operators of vehicles moving on public roads or highways.
- (4) Signs shall be designed as an integral part of a comprehensive site and landscape plan, which shall include a sign system specifying the general type, design, size and location of all signs and all sign controls to be instituted by the developer.
- (5) Freestanding signs for apartment complexes, condominiums and/or cooperatives shall be permitted by special permit of the Board of Trustees after submission to the Planning Board as part of the comprehensive site and landscape plan. The location, illumination and size of such signs shall be at the sole discretion of the Board of Trustees.

V. Enclosure and residential outside storage.

- (1) All permitted principal and accessory uses and operations which, as a result of not being enclosed, would constitute a nuisance or offense beyond the lot line or which as a result of not being enclosed would conflict with any of the specific performance standards set forth in this subsection shall be performed wholly within an enclosed building or buildings.
- (2) Outside storage or parking of commercial or recreation vehicles, camper bodies, boats and trailers on lands occupied for residential purposes shall be prohibited.

§ 210-27. Supplementary regulations. [Amended 12-20-2007 by L.L. No. 12-2007]**A. Lots and yards.**

- (1) Lot frontage on street. No building or structure shall be erected on any lot which does not have a minimum of thirty (30) feet of immediate frontage on an existing or platted street or highway.
- (2) Driveway and parking in front yard. No more than thirty percent (30%) of the total area of a front yard may be utilized for a driveway and/or parking area in any R District.
- (3) Vehicles parked in a front, side, or rear yard must be located upon an approved driveway.
- (4) Only one (1) driveway shall be permitted in any R-C, R-1, and R-2 District.
- (5) Front yard or setback exceptions.
 - (a) Where a widening or extension of an existing street or highway right-of-way or the establishment of a new street or highway is indicated on the Zoning Map or an Official Map¹³ adopted by the Village Board, any front yard or building setback required by this chapter shall be measured from such widened, extended or new right-of-way. Unless otherwise indicated on the map, any widened right-of-way shall be assumed to be centered on the former street or highway center line.
 - (b) In any R District, a building need not have a greater setback line than that established by existing buildings, if any, on the same side of the street as the proposed building.
 - (c) In any R District, in the case of corner lots with coinciding rear lot lines, the minimum setback from the side street shall be fifteen (15) feet.
- (6) Area and width for lot of record. The requirements of this chapter with respect to lot area and lot width shall not be construed to prevent the erection of a single-family dwelling on any lot of record and, in ownership, separate from that of any and all adjacent lots at the effective date of this

¹³ **Editor's Note: The maps are on file in the village offices.**

chapter, provided that the sanitation, yard and setback requirements are complied with.

- (7) Projections into yards. The following structures shall be allowed within required yards:
- (a) In any R-O, R-1, R-2 or R-C District, a wall or fence not over three feet (3) feet high in any front or side street yard, provided all fencing is a minimum of five (5) feet from any existing sidewalk or right-of-way.
 - (b) In any B-1, C-1, C-2, or I-1 District, a wall or fence not over seven (7) feet high in any front or side street yard, provided all fencing is a minimum of five (5) feet from any existing sidewalk or right-of-way. Where a fence may obstruct visibility at driveways, it shall be no more than three (3) feet high for a distance of forty (40) feet from any sidewalk or existing right-of-way.
 - (c) A wall or fence not over seven (7) feet high in any other yard.
 - (d) A retaining wall of any necessary height.
 - (e) Balconies, bay windows, chimneys and roof projections not exceeding three (3) feet.
- (8) Fences.
- (a) All such fences shall be kept in good and proper working order and the same shall not be allowed to deteriorate or be so designed, erected, placed, maintained or painted so as to constitute a nuisance, obstruction or annoyance to any resident within the Village of Alden. All such fences shall be of one uniform color and shall not be constructed of any scrap or junk materials.
 - (b) All such fences shall be so designed, constructed and placed so as to have all support beams, posts, etc., on the interior of the yard upon which such fence is placed. No such support features or posts shall be so placed as to be in the view of any adjoining land owners.

- (9) Decks and porches in R Districts.
 - (a) Decks and porches shall be permitted to encroach into the minimum required rear yard a maximum of twenty-five percent (25%), but not closer than fifteen (15) to the rear lot line.
 - (b) The minimum side yard setback for any deck shall be seven (7) feet.
- B. Visibility at intersections. No fence, wall, hedge, shrub planting or tree foliage which obstructs sight lines at elevations between two (2) and ten (10) feet above the roadway or sidewalk shall be placed or permitted to remain on any corner lot in the triangular area formed by intersecting street property lines and a line connecting them at points forty (40) feet distant from their intersection or, in the case of a rounded or cutoff corner, from the intersection of such lines extended.
- C. Accessory use limitations. **[Amended 8-11-2016 by L.L. No. 9-2016]**
 - (1) A use specified in one district shall not be permitted as an accessory use in another district unless such use is also specified in such other district.
 - (2) In an R District, the total gross floor area of all detached accessory structures on any lot shall be calculated as a percentage of the total lot area as follows:

0 acres to 0.5 acres	=	5.0% of lot area
0.51 acres to 1.0 acres	=	4.0% of lot area
1.01 acres and up	=	3.0% of lot area
 - (3) In any R District, the permitted accessory uses shall not include:
 - (a) Establishment of any new access driveway to business or industrial premises for use by any vehicles weighing five (5) tons or more,
 - (b) Private garages with vehicular entrance headroom more than ten (10) feet high,
 - (c) Storage of flammable liquids of Class I or Class II in quantities greater than two hundred (200) gallons on any lot,
 - (d) Any home occupation for which a business or trade license is required or for which a permit is required by the Board of Trustees or which is noxious or offensive by reason of dust, fumes, gas, noise, odor, refuse matter, smoke, vibration, unreasonable use of

lights or nighttime operation. The foregoing restrictions with respect to licensing shall be waived to allow the resident office of a licensed real estate or insurance agent or broker or licensed professional person in any district where expressly permitted.

- (4) Storage of flammable liquid or gas. No storage of Class I or Class II flammable liquid or gas in quantities exceeding two hundred (200) gallons shall be hereafter established except in a district where permitted and in conformance with the recommendations of all applicable codes, rules and regulations.
- (5) Removal of topsoil. Without the approval of the Building Inspector, no person shall remove topsoil for sale or for use other than on the premises from which the same shall be taken.

D. Accessory use location limitations.

- (1) In any R District, no accessory building shall be erected or altered so as to be:
 - (a) In any front yard.
 - (b) In any required side yard.
 - (c) Nearer than ten (10) feet to any dwelling unless attached thereto and considered part thereof for purposes of yard measurements.
- (2) In any R District, accessory buildings located in the rear yard shall be at least three (3) feet from the side or rear lot line.
- (3) Accessory buildings may occupy a total of not more than twenty-five percent (25%) of the required rear yard area of any lot in an R District.
- (4) In any R District, swimming pools must be a minimum ten (10) feet from any side or rear lot line, and a minimum of ten (10) feet from any building or structure, unless attached thereto by a deck or porch. The minimum distance shall be measured from the exterior edge of the pool structure not including walkways or sidewalks.

E. Exceptions to height limitations.

- (1) The height limitations of this chapter shall not apply to chimneys, church spires and belfries, water tanks or necessary mechanical features not occupying more than one-tenth (1/10) of the roof area.
- (2) In any R or C District, a public or nonprofit institutional building may be erected to a height greater than that specified for the district, provided that each front, side and rear yard is increased one (1) foot for each one (1) foot of such additional height.

F. Off-street parking. **[Amended 8-11-2016 by L.L. No. 9-2016]**

- (1) At the time any main building is erected, physically altered or changed in use, parking spaces, as specified herein, shall be provided on the same lot therewith, but not in any required front yard or side street side yard in any R District, unless upon a driveway of blacktop or concrete. Each parking space shall be at least ten (10) feet wide and twenty (20) feet long, exclusive of driveways. Unless a waiver is obtained from the Village of Alden Board of Trustees, all parking spaces must be immediately accessible to the main drive area, and cannot be stacked in such a manner that one vehicle must be moved from its parking space in order to allow another vehicle to be moved from its parking space. Adequate handicap accessible parking shall be made available. When parking is required by this Part, all parking areas, loading areas, drive areas and driveways shall be covered in either blacktop or concrete. Parking is required as follows:
 - (a) Two (2) parking spaces for each family.
 - (b) One (1) parking space for each roomer or boarder.
 - (c) One (1) parking space for each two hundred (200) square feet of resident professional office floor area.
 - (d) For an auditorium stadium, theater or other places of public assembly, at least one (1) parking space for each eight (8) occupants, based on the maximum occupant load as determined by the New York State Building and Fire Prevention Code.
 - (e) For a hospital, sanitarium or nursing home, at least one (1) parking space for each five (5) patients and employees.

- (f) For restaurants or other eating places, at least one (1) parking space for each five (5) seats, except when it is in a building which provides parking spaces, in accordance with this chapter, in which case the number of places already provided may be taken to be available for the restaurant or other eating place.
- (g) For retail stores, parking spaces at least equal to the building floor area.
- (h) For other commercial uses, parking spaces at least equal to the building floor area, unless quantitative data, acceptable to the Village of Alden in its sole discretion, is presented showing fewer parking spaces are necessary.
- (i) In any C-2 or I District, parking is required as stated in § 210-27F(h), but need not exceed one (1) parking space per employee in warehouses or similar uses with limited need for customer parking.
- (j) In any B-1 District, no parking spaces shall be located in the front yard of the property.

§ 210-28. Permitted special uses. [Amended 8-11-2016 by L.L. No. 9-2016]

- A. General provisions. The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
 - (1) Application. Application for a special permit shall be made upon a prescribed form supplied by the Village of Alden. Applicable fees¹⁴ must be paid at the time application is made.
 - (2) Required site plan. A site plan, as specified in Article VII, shall be submitted with each application for a special permit from the Board of Trustees.

¹⁴ Editor's Note: See Ch. A220, Fees.

- (3) Expiration. A special permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than six (6) months for any reason.
- (4) Existing violations. No permit shall be issued for a special use for a property where there is an existing violation of this chapter.

B. Standards applicable to all special uses.

- (1) The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it and the location of the site with respect to the existing or future streets giving access to it shall be such that it will be in harmony with the orderly development of the district, and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings nor impair the value thereof.
- (2) Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights than would be the operations of any permitted use.

C. Standards applicable to specific uses.

- (1) Mobile home parks.
 - (a) Standards for mobile home parks shall be in compliance with Chapter 131, Mobile Home Parks.
- (2) Golf driving range/practice areas.
 - (a) A golf driving range shall be so laid out that there is no danger to surrounding properties or to traffic on any street, and it shall be suitably fenced to assure protection.
 - (b) One (1) off-street parking space shall be provided for each golf driving tee.
 - (c) Landscaped screening shall be provided along all side and rear lot lines of a character and depth deemed necessary to screen buildings, structures, lights and signs from nearby residences.
 - (d) No golf driving range shall be developed on a lot smaller than ten (10) acres, except that the Board of Trustees may approve a smaller

site if the particular design proposed will, in its judgment, carry out the purposes of these regulations.

- (3) Gun clubs.
 - (a) The required development plan shall be specific concerning the relationship of proposed improvements to adjacent development. Areas used for intensive outdoor activities, especially those involving the use of firearms, shall be delineated and adequate measures for safety, hours of operation, and noise control specified. Exterior nighttime shooting shall be strictly prohibited.
- (4) Drive-in theater.
 - (a) The site shall be located on either a state or county highway.
 - (b) The site shall be designed to provide for safe and efficient traffic circulation. In addition to any requirements of the Board of Trustees, entrances or exits on state roads shall be approved by the Regional Design Engineer of the State Department of Transportation. Entrances or exits on county roads shall be approved by the Deputy Commissioner of Highways of the Erie County Department of Public Works.
 - (c) All driveways, parking areas and structures shall be located at least one hundred (100) feet from any residential district boundary.
 - (d) All driveways, parking areas and structures shall be landscaped in a manner which will make them compatible with surrounding land uses, existing or future.
 - (e) The screen shall be so oriented as not to create a distracting influence on vehicle drivers on the adjacent highways or a nuisance for residents in residence districts.
- (5) Gasoline service station or public garage, subject to the following limitations:
 - (a) No part of any building used as a gasoline service station or public garage and no filling pump, lift or other service appliance shall be erected within twenty-five (25) feet of any R District boundary.

- (b) No gasoline or fuel pump, no oiling or greasing mechanism and no other service appliance shall be installed in connection with any gasoline station or public garage within fifty (50) feet of any street line.
- (c) Two (2) reservoir spaces, ten (10) feet wide by twenty (20) feet deep for each gasoline pump, shall be provided on the lot for waiting vehicles. Such reservoir spaces shall not include space at the pump or required parking spaces.
- (d) Storage of gasoline shall be as required by all applicable codes, rules, and regulations.
- (e) There shall not be any use of the lot except for landscaping or screening within twenty (20) feet of any R District.
- (f) All motor vehicles, used for parts and other repairs, and accessories, shall at all times be stored behind an approved fence or suitable natural screening acceptable to the Village of Alden Board of Trustees. Motor vehicles that have a valid license and registration and are in a queue for repair to take place within five (5) calendar days, or on display for sale shall, be exempt from this provision, provided said vehicles are located within a designated off-street parking space or parking area. Motor vehicles which are used for parts and accessories for other motor vehicles must be stored behind an approved fence or suitable natural screening acceptable to the Board of Trustees.
- (g) Gasoline filling stations or public garages shall not create a hazard to health, safety, traffic flow, pedestrians, or the general welfare of the public. Such language shall be liberally construed to effectuate the best interests of the residents of the Village of Alden and to implement the zoning ordinances and master plan.
- (h) For all dispensing devices.
 - (1) Signs reading “No smoking-shut off motor” shall be conspicuously posted at each dispensing station or pump.
 - (2) Gasoline storage tanks shall be limited to three (3) storage tanks of not over 3,000 gallons’ capacity each, and all fuel, oil or similar substances are to be stored at least 75 feet

from any street line, including said gasoline storage tank, and 50 feet from any building.

(6) Self-storage facilities.

- (a) Self-storage facilities shall be limited to dead storage use only. No activities other than rental of storage units and pick up and deposit of dead storage shall be allowed. Examples of activities prohibited in a self-service storage facility include but are not limited to the following: commercial wholesale or retail sales; auctions, garage sales or flea markets; servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or similar equipment; the operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment; the establishment of transfer storage business; and any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations, but nothing contained herein prohibit enforcement of the provisions of the New York State Lien Law.
- (b) All rental contracts shall include clauses prohibiting:
 - [1] The storage of flammable liquids and highly combustible, radioactive or explosive materials or hazardous chemicals.
 - [2] Pets or any animals.
 - [3] The use of property for uses other than dead storage.
 - [4] The owner shall inspect each and every storage unit a minimum of once every ninety (90) days and maintain a record of the results of such inspection together with whether any hazardous products or other items in violation of this ordinance exist. Such records shall be made available upon demand by the Board of Trustees, the Superintendent of Public Works and/or the Code Enforcement Officer.
- (c) Interior parking lanes shall be provided adjacent to the storage units. Such lanes shall be a minimum of ten (10) feet in width.
- (d) Interior maneuvering lanes shall be provided around all buildings. For one-way circulations, twelve (12) feet shall be provided. For two-way circulation, twenty-four (24) feet shall be provided.

Drives shall be surfaced with asphalt or oil and chip or some other hard-packed material capable of sustaining the weight of fire equipment.

- (e) Landscaping and security. Plantings shall be provided in all yards facing public roadways. These and other plantings shall both screen and visually interrupt the linear extent of the buildings so as to reduce the appearance of massive structures. When utilized, an effective living screen of evergreen type shall consist of nursery stock a minimum of eight feet in height at the time of installation. The entire site shall be fenced to prevent vandalism or criminal activity. Any fencing for security or aesthetic purposes shall be approved by the Planning Board as to material, height and color. Site lighting shall be provided and shall be directed or shielded to prevent glare on adjacent properties or roadways.
 - (f) Signs shall be installed in accordance with applicable provisions of this Code; however, no signs shall be permitted on any portions of the security fencing.
 - (g) Rental unit size shall be limited to a maximum of four hundred (400) square feet, and no single tenant shall be permitted to rent or lease more than four thousand (4,000) square feet.
 - (h) No building shall exceed one (1) story in height, nor shall it be longer than two hundred fifty (250) feet in length.
 - (i) Site plan review by the Planning Board shall be required pursuant to Article VII of this Chapter.
- (7) Patio homes.
- (a) All patio homes must be erected on a foundation consisting of a full basement.
 - (b) Every patio home shall have an attached garage.
 - (c) Every patio home shall have provisions for a minimum of two off-street parking spaces per home.
 - (d) Every patio home development must have provisions for pedestrian sidewalks.

- (e) Every patio home development must have provisions for exterior street illumination.
- (f) Every patio home development must have provisions for snow storage and removal.
- (g) Every patio home development must have provisions for garbage and recycling storage and removal.
- (h) Every patio home development must have a development-wide planting plan.
- (i) Every patio home development must have streets with either concrete curbing or concrete gutter curbing. No open ditches shall be permitted.
- (j) Every patio home development must have a design plan that is architecturally consistent with the surrounding areas within which said development is proposed to be located.
- (k) Every patio home within a proposed patio home development project must be designed in such a manner that it is architecturally and aesthetically consistent with other patio homes within said development.
- (l) Every lot on which patio homes are located must meet the following minimum lot area requirements:
 - [1] Where no more than ten percent (10%) of the patio homes have three (3) bedrooms, there shall be no less than five thousand (5,000) square feet of lot area per home for the first four (4) homes and two thousand five hundred (2,500) square feet for every home thereafter, but under no circumstances shall there be less than a total of twenty thousand (20,000) square feet of lot area.
 - [2] Where more than ten percent (10%) of the patio homes have three (3) bedrooms, there shall be no less than six thousand (6,000) square feet of lot area per home for the first four (4) homes and three thousand (3,000) square feet for every home thereafter, but under no circumstances shall

there be less than twenty thousand (20,000) square feet of lot area.

§ 210-29. Home occupations. [Amended 8-11-2016 by L.L. No. 9-2016]

A. Conditions

- (1) The Village Board of Trustees may, upon application and a public hearing thereon, permit a home occupation in any R District subject to the applicant's ability to provide reasonable evidence that all of the following conditions will be met. A home occupation shall be limited to one (1) per single-family dwelling.
 - (a) The occupation will be conducted entirely within a dwelling or existing accessory structure and only on the first floor thereof.
 - (b) The occupation is clearly incidental and secondary to the principal use of the building and premises.
 - (c) The establishment and conduct of a home occupation shall not change the principal character or use of any dwelling unit or accessory structure and premises involved.
 - (d) No more than one (1) person other than the members of the immediate family residing on the premises may be employed by the home occupation business.
 - (e) Not more than fifteen percent (15%) of the first floor area of the dwelling is devoted to such home occupation.
 - (f) No stock-in-trade is kept or commodities sold, other than incidental supplies necessary for and consumed in the conduct of such home occupation.
 - (g) No storage or display of materials, goods, supplies or equipment related to the operation of a home occupation shall be visible from the outside of any structure located on the premises.
 - (h) Such home occupation shall not require internal or external alteration or invoke construction features not customarily in a dwelling.

- (i) The use shall not generate noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.
- (j) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front, side, or rear yard, unless upon a concrete or blacktop driveway. No driveway shall be extended beyond what existed prior to the establishment of the home occupation without the granting of a variance by the Zoning Board of Appeals.
- (k) Signs for home occupations shall be as permitted and regulated in Article V of this Chapter.

B. Procedure.

- (1) Application.
 - (a) Application for a home occupation permit shall be made by the resident to the Village Board of Trustees on a form provided by the Village of Alden and shall be accompanied by a filing fee¹⁵ as set by the Village Board.
- (2) Planning Board review.
 - (a) All applications for a home occupation permit shall be reviewed by the Planning Board, which shall report its recommendations to the Village Board.
- (3) Village Board review and public hearing.
 - (a) After considering the Planning Board's recommendation and after a duly scheduled public hearing, the Village Board may issue a home occupation permit. The Village Board may place any restrictions or conditions on the permit to protect the interests of the public and the Village of Alden. Notices of the public hearing shall be mailed by the Village Clerk to adjacent property owners.

¹⁵ Editor's Note: See Ch. A220, Fees.

(4) Permit renewal.

- (a) The time limit for the home occupation permit shall be one (1) year.
- (b) Requests for renewal shall be submitted in writing to the Village Board, accompanied by a fee¹⁶ as set by the Village Board, a minimum of thirty (30) days prior to the expiration of the currently valid home occupancy permit.
- (c) The request shall be reviewed and an inspection made of the property by the Code Enforcement Officer to verify continued compliance with the necessary criteria and conditions established with the initial approval.
- (d) The Code Enforcement Officer shall report his or her findings to the Village Board, which, upon a determination of compliance and a duly scheduled public hearing, may renew the home occupation permit for one (1) year.

(5) Voiding of permit.

- (a) The Village Board may void any home occupation permit for noncompliance with the conditions set forth in approving the permit.
- (b) Failure of applicant to renew permit shall result in automatic termination of the home occupation. For renewal, applicant must pay initial application fee and reapply for another permit.

§ 210-30. Nonconforming uses.

- A. Intent. Within the districts established by this chapter or amendments that may be adopted, there exist lots, structures, uses of land and characteristics of uses which were lawful before this chapter or amendments thereto were passed, but which would be prohibited, regulated or restricted under terms of this chapter or future amendments. Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of nonconforming lots, structures, land and uses are established for the following purposes:

¹⁶ Editor's Note: See Ch. A220, Fees.

- (1) To permit these nonconformities to continue, but to minimize any adverse effect on the adjoining properties and development.
- (2) To regulate their maintenance and repair.
- (3) To restrict their rebuilding if substantially destroyed.
- (4) To require their permanent discontinuance if not operated for certain periods of time.
- (5) To require conformity if they are discontinued, to bring about eventual conformity in accordance with the objective of the community development plan and this Zoning Chapter of the village.

B. Nonconforming lots of record.

- (1) In any R-O or R-1 District in which single-family detached dwellings are permitted, a single-family detached dwelling and customary accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.
- (2) This provision shall apply even though such lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.
- (3) If two (2) or more lots or combinations of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter and if all or part of the lots do not meet the requirements established for width and area, the lands involved shall be considered an undivided parcel for the purposes of this chapter. The provisions of this section shall not apply if any portion of said parcel shall, after the adoption of this chapter or amendment, be used or divided in a manner which prevents or diminishes compliance with the requirements established by this chapter or amendment thereto.

C. Nonconforming uses and structures.

- (1) Except as hereinafter authorized, no conforming use of land shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or an amendment of this chapter; nor shall any existing conforming structure devoted to a use not permitted by this chapter in the district in which it is located or a nonconforming structure itself or its use, if nonconforming, be enlarged, extended, constructed, reconstructed or moved, except in changing the use of the structure to a use permitted in the district in which it is located or to make the structure conforming.
- (2) Restoration of a damaged use or structure. If a nonconforming use or structure is destroyed or damaged by fire, other casualty, act of God or by the public enemy to the extent of less than seventy-five percent (75%) of its value immediately prior to the occurrence, it may thereafter be reconstructed or repaired and occupied. In all other cases, the nonconforming use shall be terminated and any nonconforming structure shall be demolished. Application for a building permit to repair, replace or reconstruct a partially destroyed or damaged use or structure as herein authorized must be made within six (6) months of the occurrence, and the repair, replacement or reconstruction must be completed within six (6) months following the issuance of the permit or the nonconforming status of the use or structure shall be terminated, and any nonconforming structure then remaining shall be demolished.
- (3) Nonconforming single-family detached dwelling units may be enlarged, provided that the enlargement does not create a nonconformity.
- (4) Superseding a nonconforming use by a permitted use. Any structure, land or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations of the district.
- (5) Moving a nonconforming use or structure. A nonconforming use or structure shall not be moved for any reason other than to conform to the regulations for the district in which it is located after it is moved.
- (6) Discontinuance or abandoning a nonconforming use or structure.
 - (a) A nonconforming use or structure discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three (3) year period shall not thereafter be used or occupied

except in conformity with the regulations of the district in which it is located.

- (b) Discontinuance of the active and continuous operation of a nonconforming use or a part or portion thereof for a period of twelve (12) consecutive months or eighteen (18) months during any three (3) year period, as the case may be, is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon the same or of an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidence of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed within a period of less than twelve (12) consecutive months, and all rights to reestablish or continue such nonconforming use shall thereupon terminate.
- (7) Nonconforming parking, loading and stacking facilities. A structure, use or occupancy existing lawfully at the time this chapter or any amendment thereto becomes effective, but which does not conform with the off-street parking, loading and stacking regulations, may be occupied or continued without such parking and/or loading spaces being provided. Any such spaces that may be provided thereafter shall comply with the regulations of this chapter. If an existing structure, use or occupancy is altered so that there is an increase of the number of dwelling units, seating capacity or floor area or if the use or occupancy is changed to one requiring more off-street facilities, then off-street parking, stacking and loading spaces shall be provided at least equal to the number required for the increased area for the structure or use in accordance with all provisions of this chapter.
- (8) Repair and maintenance.
 - (a) On any nonconforming structure or portion of a structure containing a nonconforming use or occupancy, ordinary repair work may be done or repairs or replacements of nonbearing walls, fixtures, wiring or plumbing may be made, provided that the cubic content existing when it became nonconforming shall not be increased.
 - (b) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical

condition, it may be strengthened or restored to a safe condition upon order of an official charged with protecting the public safety.

§ 210-31. Artificial illumination.

- A. In addition to any approvals under a site plan review by the Planning Board, all plans with respect to artificial illumination shall be presented to the Board of Trustees prior to final site plan approval.
- B. With respect to any artificial illumination on any property abutting and/or adjoining property located within any residential zone, steps shall be taken by the owner of the property seeking to utilize such artificial illumination to ensure that all such lights and other illumination devices are sufficiently shielded as to prevent any excessive illumination into such residential zone.

ARTICLE V

Signs**[Amended 5-18-2006 by L.L. No. 15-2006]****§ 210-32. Purpose**

The intent of these regulations is to promote and protect public health, welfare and safety by regulating and restricting the location, construction, repair, removal, alteration and maintenance of signs and other advertising devices in the village. It is intended to promote public safety, to protect property values, to create a more attractive economic climate and to enhance the scenic and natural beauty of the village.

§ 210-33. General conditions and regulations. [Amended 6-23-2011 by L.L. No. 5-2011]

The following requirements will apply to any signs not otherwise provided for in the Article:

- A. Except for those signs specifically identified in § 210-37, §210-38 and §210-39, no sign shall be erected in the Village of Alden without a permit issued by the Code Enforcement Officer.
- B. The provisions and regulations specified herein apply only to exterior signs which are visible from the public right-of-way.
- C. All signs shall be securely attached to a building or a structurally sound support, and their display surfaces shall be kept neatly painted and in good repair at all times.
- D. No illuminated signs or outdoor illumination shall direct light in a way which would create a traffic hazard or nuisance or be unreasonably detrimental to adjoining or neighboring properties.
- E. Except for time and temperature signs, no sign shall be illuminated by or contain a flashing, intermittent, rotating or moving light or lights. Lighting devices shall employ only lights emitting light of constant intensity.
- F. No sign shall project over a public right-of-way or sidewalk.
- G. A flush-mounted building sign shall not project more than twelve (12) inches from the face of the building to which it is attached.

- H. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or similar fluttering devices.
- I. No sign shall consist of animated or moving parts.
- J. No movable or portable signs shall be permitted to be placed on any premises in the village. Temporary signs approved under § 210-39 are exempt from this provision.
- K. No signs shall be attached to trees.
- L. No signs shall be attached to fences or utility poles for a period of more than seventy-two (72) hours.
- M. No sign shall be erected or maintained upon the roof of any building or structure.
- N. No motor vehicle, mobile home or trailer on which is placed or painted any sign shall be parked or stationed in a manner primarily intended to display the sign.
- O. No sign shall be erected or maintained within the public right-of-way of any street, nor within fifteen (15) feet of the pavement of any public street or within ten (10) feet of any property line unless flush-mounted to a building.
- P. Except when otherwise provided for in this chapter, not more than one (1) sign shall be permitted which advertises a business use or service other than that which exists on the premises on which said sign is located. The primary function of the sign must be to advertise the principal use of the business on the property on which the sign is located.
- Q. The regulations specified herein shall not apply to any sign or directional device erected by any governmental agency, nonadvertising signs identifying underground utility lines or posted or preserve signs erected pursuant to the Environmental Conservation Law of the State of New York.
- R. No sign shall be erected in such a manner as to confuse or obstruct the view of any traffic sign, signal or device.
- S. No sound amplifiers, public address systems or other sound devices shall be used as a means of advertising or to attract attention to a sign.
- T. Awnings, as defined by this chapter, may be permitted, provided that they comply with the following standards and regulations:

- (1) No awning shall extend out more than six (6) feet from the building surface from which it is attached.
 - (2) No awning shall be less than seven (7) feet above the sidewalk or entranceway over which it is attached.
- U. Flower boxes, which extend over or rest on a public right-of-way, shall not extend more than nine (9) inches from the façade of the building to which they are accessory. Flower boxes shall not contain any lettering, logos, or pictorial matter and may not be illuminated, except indirectly.

§ 210-34.1. Illuminated Signs. [Amended 3-6-14 by L.L. No. 2-2014]

- A. Sign lighting shall be shielded to prevent glare onto adjacent public rights-of-way and adjacent private properties. Sign lighting shall be directed so the light does not stray above the light source horizontally. All lighting shall be steady and even over the entire sign.
- B. All lighting fixtures and elements shall be maintained in good working condition.
 - (1) The full number of illuminating elements of the sign shall be kept in working condition or immediately repaired or replaced.
- C. Illumination shall be steady in nature, not fluctuating, flashing, rotating, intermittent, moving or changing in brilliance or intensity. Any illuminated sign or lighting device shall employ only lights emitting a perceived constant intensity. The light shall be the minimum necessary for the intended purpose of such illumination, consistent with public safety and welfare. In no event shall any illuminated sign or lighting device be placed so as to permit the beams and illumination therefrom to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance. Overhead wires or exposed wires on a sign or its supporting members are prohibited.
- D. Message displays will be instantaneous, without scrolling, fading-in, dropping-in, or similar moving copy changes.
- E. Brightness shall not be of such intensity from sunset until sunrise that would annoy, disturb, distract, or otherwise endanger an individual of reasonable intelligence and demeanor.

- F. No sign shall be placed or be directed so as to permit the sign illumination to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause hardship or danger to any person or persons.
- G. Sign lighting for commercial purposes which is permanently attached to the building shall be a steady, non-flashing light in addition to those regulations set forth in this Section.
- H. Light emitting diode (LED) and electronic variable Message (EVM) signs:
 - (1) LED and EVM signs shall be permitted only in B-1, C-1, C-2 and I-1 Zoning Districts.
 - (2) The face area of the sign shall be limited to 50% of the allowable free-standing sign or forty (40) square feet, whichever is less.
 - (3) The frequency of the electronic display/displays will be limited to a maximum of one message display per every twenty (20) seconds.
 - (4) The message displays will be presented only in an alpha-numerical format; moving picture, digital movies and sound shall not be utilized. Still graphics may be utilized as backdrop to message displays, but they shall not otherwise change.
- I. All signs containing electrical wiring shall be subject to the provisions of the National Electrical Code and the New York Board of Fire Underwriters Provisions and the electrical components used shall bear the label of an approved testing agency.
- J. No sign or any part thereof shall contain or consist of any pennant, ribbon, streamer, balloons, spinner or other similar moving, fluttering, or revolving device. Such devices shall be prohibited even if they have no message or logo on them. Said devices, as well as strings of lights, shall not be used for advertising or directing attention whether or not they are part of the sign.
- K. All other provisions of this Chapter shall apply to illuminated signs as provided herein.

§ 210-34.2. Business uses in R-C, B-1, C-1, C-2 and I-1 Districts. [Amended 6-23-2011 by L.L. No. 5-2011]

- A. The total area of all signs erected on a single property to advertise a specific business activity of that property, including freestanding and building signs, shall not exceed an area of two (2) square feet for each linear foot of building frontage of the principal structure, measured along the street or off-street parking area, whichever is greater, that provides the principal access for the use.
- B. Directional signs that do not exceed four (4) square feet in sign area and are limited to such texts as “Office,” “Entrance,” “Exit,” “Parking” and “No Parking” shall be excluded from the limitation on the total area of signs permitted.
- C. No freestanding sign shall be more than twenty-five (25) feet in height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof. The Planning Board shall establish the setback for freestanding signs to ensure that such signs do not obstruct the view of motorists or create a nuisance to adjacent properties.

§ 210-35. Conduct of more than one principal activity.

- A. Notwithstanding the standard governing the total area of signs permitted to be erected or maintained on any parcel of real property set forth in § 210-34 above, the following standards shall guide the regulation of all signs associated with projects when more than one (1) principal building or business use or activity is proposed to be conducted upon a single parcel of real property, such as in the case of a shopping center, plaza or mall or other multiple commercial use facility or industrial park.
 - (1) A single freestanding sign of up to thirty-two (32) square feet in area and not more than twenty-five (25) feet in height may be erected which identifies the name of the center or facility as a whole and does not advertise any individual business activity.
 - (2) One (1) sign identifying individual businesses or uses may be erected for each separate principal activity. Individual business signs may be attached to the face of the building. Such signs shall not exceed the lesser of two (2) square feet of area for each linear foot of store frontage or twenty percent (20%) of the surface area of the building face on which the sign is to be attached.

- (3) In a multiple commercial use facility or industrial park, there may be one (1) directory sign at any location therein which shall not exceed five (5) square feet for each acre of land in such commercial area or industrial park, provided that no such sign shall exceed twenty (20) square feet in area. In addition, at each point of entrance and exit for vehicular traffic into such multiple commercial use facility or industrial park, one (1) other directory sign shall be permitted which does not exceed four (4) square feet for each acre of land in such multiple commercial use facility or industrial park. Such signs shall not exceed a total area of twelve (12) square feet.
- (4) An overall sign design plan for any such center or facility shall be submitted with the application for site plan approval. The sign design plan shall include plans for each principal activity therein and shall reflect a reasonable uniformity of design, lettering and material.

§ 210-36. Non-business uses in R-O, R-1, R-2 and R-C Districts.

- A. For multiple-family dwellings, churches, libraries, social clubs, public buildings and other similar uses, a single identification sign not exceeding sixteen (16) square feet in area and indicating only the name and address of the building may be displayed. Signs identifying churches, libraries and other similar public buildings may, in addition to the name and address, include the times that services are provided. Such signs shall not be located closer to any lot line than one-half (1/2) of the required setback nor project more than four (4) feet in height above grade. Illuminated signs shall comply with § 210-31, Artificial Illumination.
- B. No more than two (2) signs advertising the sale, lease or rental of a property may be placed on the site which is available. Said signs shall be removed from the premises within seven (7) days after the property has been leased or title transferred.
- C. A permanent sign may be erected to indicate a subdivision. Said sign shall be approved by the Planning Board.
- D. A sign advertising the sale of property within an approved subdivision may be permitted, provided that said sign does not exceed an area of thirty-two (32) square feet. Said sign shall be located at the entranceway to the subdivision and may be placed on the property for a period of three (3) years from the time of subdivision approval or thirty (30) days following the sale of the last lot in the subdivision, whichever is first.

§ 210-37. Off-premises signs. [Amended 6-23-2011 by L.L. No. 5-2011]

Off-premises signs that advertise a business use or service located on a property other than that of the advertised business use or service shall comply with the following:

- A. Signs shall only be erected on property located in B-1, C-1, C-2 and I-1 Districts.
- B. No vacant property containing an off-premises sign shall have any structure placed upon it until such time said sign has been removed.
- C. No sign on vacant property shall have more than two (2) sides. The maximum size of any one (1) side of a sign shall be one hundred (100) square feet.
- D. The maximum height of any sign on vacant property shall not exceed thirty (30) feet when measured from the ground at the point of the nearest public right-of-way (for these purposes determined to be the shoulder of the road immediately adjacent to the paved portion of the right-of-way) to the top of the sign or structure containing the sign, whichever is higher.
- E. No sign on vacant property shall be located closer than one hundred fifty (150) feet to any public right-of-way and/or any lot line of an adjoining lot located in a B-1, C-1, C-2 or I-1 Zoning District.
- F. No sign on vacant property shall be located closer than three hundred (300) feet to any lot line of an adjoining lot located in an R-O, R-1, R-2 or R-C Zoning District.
- G. The maximum number of signs permitted on any single property shall be one (1) sign.
- H. In the event an off-premises sign is located on property which is not vacant, same shall only be allowed as a temporary sign pursuant to § 210-39 of this code.

§ 210-38. Signs permitted in all districts without permit.

- A. The following signs are permitted in all districts without a permit:
 - (1) Signs bearing the name of the principal occupant and/or the street address of a private dwelling which do not exceed three (3) square feet in area.

- (2) Professional nameplates which do not exceed three (3) square foot in area.
- (3) Signs advertising the sale, lease or rental of the premises upon which the sign is located, as regulated in § 210-36B and § 210-36D of this code.

§ 210-39. Temporary signs. [Amended 2-9-2012 by L.L. No. 6-2012]

- A. Temporary signs advertising any educational, charitable, civic, religious or like event may be erected or displayed without a permit for a consecutive period not to exceed thirty (30) days in any calendar year with Village Board approval. Approved signs shall not exceed thirty-two (32) square feet in area. Temporary signs advertising any business use not on the property owned by that business may be erected with a permit for a consecutive period not to exceed thirty (30) days in any calendar year upon the approval of the Village Board. Such sign must meet the conditions set forth in subdivision B herein.
 - (1) The actual location of any such sign shall be approved by the Code Enforcement Officer and Board of Trustees prior to its erection and/or placement.
 - (2) The owner of such sign shall provide proof of insurance satisfactory to the Code Enforcement Officer and Board of Trustees prior to the granting of any approvals.
 - (3) Upon seeking a permit, the owner of such sign shall pay an annual registration fee¹⁷ as determine by the Board of Trustees
- B. One (1) temporary sign advertising a business use may be displayed in front of said business, provided the following conditions are met:
 - (1) A permit for each sign must be obtained from the Village of Alden, and shall be valid for one (1) year from the date of issuance. An application for a temporary business sign, on forms obtained from the Village of Alden, must be submitted to the Village Board of Trustees with the following information:
 - (a) The name and address of the applicant.
 - (b) The address of the location of the proposed sign.

¹⁷ Editor's Note: See Ch. A220, Fees.

- (c) A plat plan of the premises showing all buildings, right-of-ways, easements, sidewalks, and the proposed location of the sign with distances to the above items indicated on the plan.
 - (d) Dimensions of the sign and all of its components.
 - (e) The graphic design of the sign, including symbols, letters, materials and colors.
 - (f) The visual message, copy, text or content of the sign.
 - (g) Additional information as necessary to show compliance with this Section.
- (2) Signs shall not have more than two (2) sides. The maximum size of any one side of a sign shall be eight (8) square feet.
 - (3) All signs must be maintained in good repair at all times.
 - (4) Signs shall not be illuminated in any fashion.
 - (5) No sign shall be placed upon or project over a public right-of-way or sidewalk unless formal plans and specifications for same have been prepared by a professional engineer, contractor, architect, or similar profession which adequately depict the size, location, and configuration of such sign. Such plans, drawings, photographs and/or renditions, shall be clearly certified to the effect that the placement, configuration, and size of the sign shall not impede the public thoroughfare and/or sidewalk nor pose any danger and/or potential risk to any user of the sidewalk and/or public thoroughfare.
 - (6) No sign shall consist of banners, vinyl signs, posters, penants, ribbons, streamers, spinners or similar fluttering devices.
 - (7) No sign shall consist of animated or moving parts.
 - (8) No sign shall be attached to trees.
 - (9) No signs shall be attached to fences or utility poles.
 - (10) No sign shall be placed in such a manner so as to confuse or obstruct the view of a traffic sign, signal or device.

- (11) No sign shall be placed in such a manner so as to obstruct the view of any motor vehicle operator.
 - (12) No sound amplifiers, public address systems or other sound devices shall be used as part of a sign.
- C. Notwithstanding the above, political signs may be displayed without Village Board approval for a period not to exceed thirty (30) days prior to the date of election, special election and/or primary election. Said signs shall be removed within seven (7) calendar days after the election.
 - (1) The removal of such signs shall be the responsibility of the particular candidate and it shall not be a defense to any alleged violation that such sign was not specifically placed on the property by the candidate.
- D. Temporary signs advertising a special event, promotion, opening, or similar limited business event may be authorized for a period not to exceed fourteen (14) calendar days within a calendar year, when prior approval is granted by the Village of Alden Board of Trustees based on the following requirements:
 - (1) An application for a special event sign approval, on forms obtained from the Village of Alden, must be submitted to the Village Board of Trustees with the following information:
 - (a) The name and address of the applicant.
 - (b) The address of the location of the proposed sign(s).
 - (c) A plat plan of the premises showing all buildings, right-of-ways, easements, sidewalks, and the proposed location of the sign(s) with distances to the above items indicated on the plan.
 - (d) Dimensions of the sign(s) and all of its components.
 - (e) The graphic design of the sign(s), including symbols, letters, materials and colors. If any sign is proposed to be illuminated, whether directly or indirectly, details on the lighting and intensity must also be provided. If any sign is proposed with movable parts, details on the movement and type must also be provided.
 - (f) The visual message, copy, text or content of the sign(s).

§ 210-40. Permit required.

- A. Except as otherwise provided, no person shall erect, alter or relocate any sign without first obtaining a permit from the Code Enforcement Officer. No permit shall be required for the general repair or maintenance of any permitted sign.

§ 210-41. Application procedure.

- A. Applications shall be made in writing to the Code Enforcement Officer on forms obtained from the Village of Alden and shall contain the following information:
- (1) The name, address and telephone number of the applicant.
 - (2) The name, address and telephone number of the property owner.
 - (3) The location of the building, structure and/or land upon which the sign now exists or is to be erected.
 - (4) A plan, drawn to scale, as well as a description of the sign, sign structure and placement and should include the following:
 - (a) Its location on the premises, specifically its position in relation to existing buildings, structures, property lines, roadways, driveways, parking lots and any other existing or proposed signage, and indicating such distances.
 - (b) Dimensions of the building or buildings on the property where the sign is proposed.
 - (c) The method of illumination, if any, and the position of lighting or other extraneous devices.
 - (d) Graphic design, including symbols, letters, materials and colors.
 - (e) The visual message, copy, text or content of the sign.
 - (f) Any other information the Code Enforcement Officer may deem necessary to confirm compliance with all applicable laws and codes.

§ 210-42. Issuance of permit.

- A. It shall be the duty of the Code Enforcement Officer, upon the filing of the application for said permit, to examine all of the data submitted to him with the application and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all of the requirements of this chapter and other rules and regulations of the Village of Alden, the Village Board of Trustees has reviewed the sign for compliance with the comprehensive plan, and all other approvals have been granted, a permit for the erection of the proposed sign shall be issued upon payment of all applicable fees¹⁸ as set from time to time by the Village Board of Trustees. If the sign authorized under any such permit has not been completed within one (1) year from the date of issuance of such permit, the permit shall become null and void.

§ 210-43. Removal of signs.

- A. The Code Enforcement Officer shall notify the owner of any sign which no longer serves the purpose for which a permit was granted or is unsafe, insecure, in a state of disrepair, or is a menace to the public or has been erected or installed in violation of this chapter, in writing, to remove or correct the unsatisfactory condition of said sign within five (5) days from the date of such notice.
- B. The Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily upon written notice to that effect. Failure to comply within twenty-four (24) hours of such notice shall serve as an authorization to the Code Enforcement Officer to remove or cause the removal of such sign, with all costs and expenses charged as provided for above.

ARTICLE VI**Administration and Enforcement****§ 210-44. Administrative authorities.**

This chapter shall be administered by the Village Engineer, the Planning Board, the Village Clerk and such other agencies as the Village Board shall direct and shall be

¹⁸ Editor's Note: See Ch. A220, Fees.

enforced by the Code Enforcement Officer. Those departments and agencies shall be provided with the assistance of such persons as the Village Board may direct.

§ 210-45. Enforcement.

This chapter shall be enforced by the Code Enforcement Officer.

§ 210-46. Construction and use.

Building permits authorize only the use, arrangement and construction which is in compliance with this chapter and other applicable laws. Use, arrangement or construction not in compliance with this chapter or other applicable laws shall be a violation of this chapter.

§ 210-47. Determination of similar uses.

- A. The Planning Board and any other designee of the Village Board may determine that a use not specifically listed in any of the permitted building and use classifications in any districts established by this chapter is a similar use to those enumerated in a specific district. In making a determination that a use is similar, the Planning Board shall first determine that:
- (1) The use is not listed in any other classification of permitted buildings or uses.
 - (2) The use is appropriate and conforms to the basic characteristics of the classification to which it is to be added.
 - (3) The use does not create dangers to health and safety and does not create offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences to an extent greater than that resulting from other uses listed in the classification to which it is to be added.
 - (4) Such a use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added.
- B. The determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of the use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be included in the enumerations of uses permitted by right.

ARTICLE VII
Site Plan Review
[Amended 6-26-2004 by L.L. No. 5-2004]

§ 210-48. Intent.

The following site plan review provisions are intended to secure compliance with the requirements and standards set forth in this chapter and with the objectives of the master plan

§ 210-49. Application. [Amended 12-20-2007 by L.L. No. 13-2007]

- A. All applications for building permits shall be accompanied by an approved site plan, with the following exceptions:
- (1) single- or two-family dwellings or their accessory buildings or structures.
 - (2) Accessory buildings, equipment, or structures that do not exceed three hundred (300) square feet in area, or in the case of fencing, two hundred (200) total feet in length.
- B. Applications for building permits for which all proposed work is wholly contained on the interior of the structure and no modifications or improvements are proposed on the exterior of the structure or property, except for replacement or maintenance of siding, doors, windows and other exterior property maintenance features, shall be exempt from these provisions, provided:
- (1) A plat plan, as outlined in 210-49C of this Section, is submitted showing compliance with the requirements of off-street parking as provided in this Code; and
 - (2) No additions or modifications are proposed to exterior artificial illumination; and
 - (3) No natural landscaping features are being disturbed or removed; and
 - (4) No modifications are proposed that will affect the ingress or egress of motor vehicles on the property or adjoining streets.
- C. In the case of single- or two-family dwellings or their accessory buildings or structures, one (1) copy of a plat plan showing dimensions of the lot and the size and location of all existing and proposed buildings or structures on the lot shall be

required with the application for building permit. Distances to lot lines for all existing and proposed buildings or structures must also be provided on the plat plan.

§ 210-50. Reviewing agency.

The Village of Alden Planning Board is hereby authorized to review and to recommend to the Village Board approval, approval with modification or disapproval of site plans prepared in accordance with such standards as are duly adopted by the Planning Board.

§ 210-51. Review procedures. [Amended 12-20-2007 by L.L. No. 18-2007]

- A. Site plan. An application for site plan review shall be made for review by the Planning Board, Village Engineer, Superintendent of Public Works, and Building Department, on a form supplied by the Village of Alden, and shall be accompanied by the applicable fee¹⁹, a cover letter addressed to the Village of Alden requesting a review of the proposed project with a thorough description of the nature of the project, and ten (10) copies of a plat plan showing dimensions of the lot and the size and location of all existing and proposed buildings or structures on the lot.
- B. Preliminary site plan submission and review. Upon receipt of the required documents as specified in § 210-51A and § 210-53, a preliminary review shall be conducted at a scheduled Planning Board Meeting wherein the applicant, Planning Board, Village Engineer, Superintendent of Public Works, and Building Department will attend and discuss the scope of the project and those aspects of the project that will require further information for the Village of Alden to make a determination on the project. These aspects of the project may include, but are not limited to:
 - (1) The preparation and certification of drawings, documents and information by a qualified professional engineer, architect, planner or surveyor, as appropriate.
 - (2) The title of the drawing, name of the development, name of the applicant, name and seal of the person preparing drawing, North point, scale and date, to be included on all drawings.
 - (3) Boundary survey.

¹⁹ Editor's Note: See Ch. A220, Fees.

- (4) Existing topography of the site with a contour interval of not more than two (2) feet.
- (5) The location of all existing watercourses, wooded areas, easements, rights-of-way, roads, railroads, canals, rivers, buildings, structures or any other physical feature directly on the site or beyond the site which would exert any impact on the proposed development.
- (6) Land use information regarding all contiguous and neighboring properties within one thousand (1,000) feet of the proposed development.
- (7) The location of all utilities, including sanitary and storm sewers and water, gas and electric facilities, serving the site.
- (8) The location with setbacks, size and height of proposed buildings and structures, including first floor elevation.
- (9) Preliminary architectural plans for proposed buildings or structures.
- (10) The location and description of any existing or proposed fences or outdoor signs.
- (11) The location of all proposed roads, access drives, pedestrian walks and off-street parking areas.
- (12) A general landscaping plan and planting schedule.
- (13) A plan for grading.
- (14) A plan for exterior lighting. See § 210-31, Artificial Illumination.
- (15) Provisions for water supply, sewage disposal and storm drainage.
- (16) Location of outdoor storage, if any, including dumpster and compactor enclosures.
- (17) The general nature and location of public and private utilities, including maintenance facilities.
- (18) The nature and plans for buffer zones between residential and nonresidential properties and uses, when applicable.
- (19) The sanitary sewer plan showing rim and invert elevations.

- (20) A statement as to the daily estimated sanitary sewer flow.
 - (21) Conformance to any approved federal, state and county standards.
 - (22) Record of application for and status of all necessary permits from other government bodies.
 - (23) An estimated project construction schedule.
- C. After the preliminary site plan review, the determination of the requirements for the formal site plan shall be sent in letter form from the Planning Board Chairperson to the applicant, Village Board of Trustees, Village Engineer, Superintendent of Public Works, and Building Department. Said letter shall be mailed within seven (7) calendar days after the Planning Board meeting where the determination of requirements is made.
- D. Formal site plan submission and review. After the preliminary review has been conducted, the applicant shall submit twelve (12) copies of a formal site plan, including all required information and documentation required from the preliminary review, to the Village of Alden for formal site plan review.
- E. The Village of Alden shall refer the formal site plan to the Planning Board, Village Engineer, Superintendent of Public Works, Building Department and, as deemed necessary, to all other officials and agencies for their review and recommendations.
- F. The Planning Board may conduct a public hearing on the site plan if considered desirable by the majority of its members.
- G. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 175 and Chapter 176 of this Code shall be required for Formal Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 175 and 176 of this Code. The approved Site Plan shall be consistent with the provisions of this Chapter.

§ 210-52. Review Standards. [Amended 8-11-2016 by L.L. No. 9-2016]

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to the following considerations:

- A. Zoning compliance and compatibility with the Master Plan. All required waivers and variances must be obtained from the Zoning Board of Appeals and other applicable agencies and departments prior to formal site plan approval.
- B. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- C. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- D. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. Adequacy of stormwater and drainage facilities. Adequacy of water supply and sewage disposal facilities.
- F. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, along with sufficient greenspace within any site, including the maximum retention of existing vegetation.
- G. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- H. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- I. Overall impact on the neighborhood, including compatibility of design considerations.

§ 210-53. Time of submission.

The time of submission of the site plan shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which the application for site plan approval, complete and accompanied by the required fee²⁰ and all other data required by these regulations, has been filed with the Village Clerk.

²⁰ Editor's Note: See Ch. A220, Fees.

§ 210-54. Planning Board action.

Within sixty (60) days from the time of submission of the formal site plan, the Planning Board, Village Engineer, Superintendent of Public Works, and Building Department shall render their ~~its~~ recommendations to the Village Board for approval, conditional approval or disapproval of those aspects of the formal site plan which fall under the jurisdiction of their respective departments. This time period may be extended by mutual consent of the applicant and the Planning Board.

§ 210-55. Village Board action.

Within ninety (90) days of the time of submission of the formal plan, complete with Planning Board, Village of Alden department head and all other relevant agency recommendations, the Village Board shall render a decision of approval, conditional approval or disapproval.

A. Approval.

- (1) Upon approval, the Village Board, by signature of the Mayor or Deputy Mayor, shall endorse its approval on six (6) copies of the site plan and shall immediately file one (1) copy and a written statement of approval with the Village Clerk. One (1) copy of the endorsed site plan and a copy of the written statement of approval shall be mailed to the applicant, one (1) copy of the endorsed site plan shall be filed with the Planning Board, one (1) copy shall be given to the Department of Public Works and the remaining two (2) copies of the approved site plan shall be filed with the Building Department.

B. Conditional Approval.

- (1) The Village Board may conditionally approve the site plan. Upon demonstration by the applicant that all conditions have been met, the Village Board, by signature of the Mayor or Deputy Mayor, shall endorse its approval on six (6) copies of the site plan and shall immediately file one (1) copy and a written statement of approval with the Village Clerk. One (1) copy of the endorsed site plan and a copy of the written statement of approval shall be mailed to the applicant, one (1) copy of the endorsed site plan shall be filed with the Planning Board, one (1) copy shall be given to the Department of Public Works and the remaining two (2) copies of the approved site plan shall be filed with the Building Department.

C. Disapproval.

- (1) Upon disapproval of the site plan the decision of the Village Board shall immediately be filed with the Village Clerk and a copy thereof mailed to the applicant.

§ 210-56. Fee.

An application for site plan review shall be accompanied by a fee in an amount as determined from time to time by the Village Board of Trustees.²¹

§ 210-57. Reimbursable costs.

Costs incurred by the Planning Board or the Village Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant.

§ 210-58. Improvements.

- A. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed.
- B. In the case of projects designed and approved to be completed in parts or phases, no certificate of occupancy shall be issued until all improvements shown on the approved site plan for a given part or phase are installed and completed, or sufficient monies are placed in escrow with the Village of Alden for completion of the unfinished items.
- C. The Building Department shall be responsible for the overall inspection of site improvements, including coordination with other officials and agencies, as appropriate.
- D. The applicant shall provide a map satisfactory to the Building Department indicating locations of monuments marking all underground utilities as actually installed. No performance bonds shall be released nor certificates of occupancy issued until such map is provided by the developer.

²¹ Editor's Note: See Ch. A220, Fees.

§ 210-59. Expiration, revocation and nullification of site plan approval. [Amended 8-11-2016 by L.L. No. 9-2016]

- A. No site plan approval shall be valid for more than six (6) months from the date of such approval, unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or an occupancy permit is obtained and a use commenced within that period. Notice shall be provided to the Planning and Village Boards by the holder of the permit at the time of site plan approval in the event that it is reasonably anticipated that construction shall take longer than six months from the date of such issuance. Failure to diligently pursue and complete construction may result in a revocation of any site plan approval after notice to the applicant by certified mail, after which the Village Board shall conduct a public hearing for the purpose of hearing comments for or against the proposed revocation
- B. The Village of Alden Board of Trustees may revoke an approval for a site plan if evidence is submitted that the provisions of the original site plan approval have been altered or are not being constructed as approved. Prior to revocation of any site plan approval, and after notice to the applicant by certified mail, the Village Board shall conduct a public hearing for the purpose of hearing comments for or against the proposed revocation.
- C. The subsequent sale of any portion of property within a previously approved site plan shall nullify approval for said site plan.

ARTICLE VIII
Penalties

§ 210-60. Penalties for offenses. [Amended 8-11-2016 by L.L. No. 9-2016]

- A. A violation of this chapter is hereby declared to be an offense punishable by a fine not to exceed five hundred fifty dollars (\$550.00) or imprisonment for a period not to exceed six (6) months, or both, for a conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine of not less than five hundred fifty dollars (\$550.00) nor more than eight hundred dollars (\$800.00) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine of not less than eight hundred dollars (\$800.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.
- B. A person shall be subject to the penalties imposed by this section in any case where an order to remove any violation of any of the provisions of this chapter has been served by the Code Enforcement Officer upon the owner, general agent, lessee or tenant of the building, other structure or tract of land or any part thereof or upon the architect, building, contractor or anyone who commits or assists in any such violation and where such person shall fail to comply with such order within ten (10) days after the service thereof. Each week's continued violation shall constitute a separate additional violation and shall be punishable hereunder.

§ 210-61. Other remedies.

In addition to the foregoing remedies, the Village of Alden may institute any appropriate action or proceeding to prevent, correct or restrain any violation of this chapter.

ARTICLE IX
Zoning Board of Appeals
[Amended 5-18-2006 by L.L. No. 17-2006]

§ 210-62. Creation and organization; vacancies. [Amended 6-23-2011 by L.L. No. 1-2011]

- A. The Zoning Board of Appeals. The Zoning Board of Appeals shall consist of five (5) members appointed by the Village Board upon the recommendation of the Mayor. The members of the Zoning Board of Appeals as now constituted shall continue in office until the expiration of their present terms. Thereafter, their successors shall be appointed for terms of five (5) years each. Vacancies shall be filled as provided for in the Village Law.
- B. Zoning Board of Appeals Clerk. The Village Clerk or his/her designee shall be the Zoning Board of Appeals Clerk and shall perform such duties as required by it. The Village Board may appoint additional clerks or other employees serving at its pleasure to assist the Zoning Board of Appeals.
- C. Zoning Board of Appeals Secretary. The Zoning Board of Appeals Secretary shall keep minutes of all proceedings before the Zoning Board of Appeals.
- D. Training requirements. All Zoning Board of Appeals members must complete a minimum of twelve (12) hours of in-service training every three (3) years. In-service training hours in excess of twelve (12) hours in every three years can be rolled over into subsequent years to satisfy the requirement for those subsequent years. All in-service training must be relevant to the functions of the Zoning Board of Appeals, as determined by the Village of Alden Board of Trustees. All in-service training must receive prior approval by the Village of Alden Board of Trustees to be eligible for credit and any applicable reimbursement.
- E. Removal of members. The Mayor shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for absence at three (3) or more scheduled meetings of the Zoning Board of Appeals in any calendar year.

§ 210-63. Powers and duties. [Amended 8-11-2016 by L.L. No. 9-2016]

- A. The Board shall have all the powers and perform all of the duties established by statute and this chapter.

- (1) The Board shall adopt rules for the conduct of its business consistent with statute and this chapter.
 - (2) The Board shall, upon a favorable vote of a majority of its members, designate an Acting Chairperson to act as Chairperson in the absence of the appointed Chairperson.
 - (3) The Chairman of the Board or, in his or her absence, the Acting Chairman may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by the Village Law and the Civil Practice Law and Rules.
- B. Interpretation. Upon an appeal from a decision by an administrative official, the Board shall decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- C. Application.
- (1) Applications for a hearing of the Zoning Board of Appeals may be obtained from the Village Clerk.
 - (2) All such applications shall contain the following information:
 - (a) The name, address and telephone number of the applicant.
 - (b) The name, address and telephone number of the property owner.
 - (c) The location of the property for which the hearing is requested.
 - (d) The present zoning and applicable area restrictions.
 - (e) A description of the area variance requested, together with the reasons for the conflict with the present zoning criteria.
 - (f) Names of abutting property owners and all other property owners directly across the street.
 - (g) A list and description of any and all easements, encumbrances and other restrictions on the property.
 - (h) An attached copy of the survey and title deed.

- (i) The application fee²².

D. Area variances.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this Chapter, to grant area variances as defined in this Chapter.
- (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Zoning Board of Appeals shall also consider:
 - (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) whether the requested area variance is substantial;
 - (d) whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance; and
 - (f) whether it will create a hazard to health, safety or general welfare. Such language shall be liberally construed to effectuate the best interests of the residents of the Village of Alden and to implement the zoning ordinances and master plan.
- (3) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the

²² Editor's Note: See Ch. A220, Fees.

same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

E. Use variances.

- (1) The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of this Chapter, shall have the power to grant use variances, as defined in this Chapter.
- (2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the Zoning regulations for the particular district where the property is located,
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) That the alleged hardship has not been self-created; and
 - (e) That it will not create a hazard to health, safety or general welfare. Such language shall be liberally construed to effectuate the best interests of the residents of the Village of Alden and to implement the zoning ordinances and master plan.
- (3) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

F. Imposition of conditions.

- (1) The Zoning Board of Appeals shall, in the granting of both area variances and use variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

G. Decision of the Zoning Board of Appeals.

- (1) A decision shall be made within sixty-two (62) days after a hearing by the Zoning Board of Appeals.
- (2) The decision of the Zoning Board of Appeals shall be filed in the Village Clerk's Office within five (5) business days after the rendering of such decision, and a copy thereof shall be mailed to the applicant.

H. Expiration of approval.

- (1) An approval granted by the Zoning Board of Appeals under this division shall expire:
 - (a) if a building permit is not obtained within six (6) months of the date of approval, in those cases where the approval authorized construction activity; or
 - (b) if the use is not commenced and continued within six (6) months of the date of approval, in those cases where the approval authorizes a use or a change of use.

In addition, an approval granted by the Zoning Board of Appeals which authorizes construction shall expire if the construction is not substantially completed within two (2) years of the date of approval.

The Zoning Board of Appeals may extend these expiration periods if a request for extension is received, in writing, by the Board before the expiration of the first grant. These expiration periods are not tolled or stayed by the pendency of any other proceedings or permit applications for the same property.

§ 210-64. Zoning Board of Appeals procedures.

- A. The Zoning Board of Appeals shall, consistent with the Village Law and this local law, determine its own rules and procedures and all its deliberations, resolutions and orders shall be in accordance therewith; provided, however, that all hearings shall be public and that the Board shall keep complete minutes of its proceedings, showing its findings and detailed reasons for its decisions, and said minutes shall be a public record.
- B. Notification for all public meetings and public hearings shall be consistent with the Open Meetings Law. The Zoning Board of Appeals shall notify, by regular mail with a certificate of mailing, the owner of record on the most recent Village of Alden Tax Rolls for the property set for review under this Article, and the applicant if different from the property owner. The Zoning Board of Appeals shall also notify, by regular mail with a certificate of mailing, all properties immediately adjoining and directly across the street from a subject property set for review under this Article.

§ 210-65. Amendment procedures.

- A. Initiation of zoning amendments. The regulations, restrictions and boundaries herein provided may from time to time be amended, supplemented, changed, modified or repealed as provided by law. The provisions hereinafter contained shall apply to amendments, supplements, changes or modifications to district boundaries or classifications thereof. If any area is transferred from one district to another district, any nonconforming use thereby created may be continued to the extent permitted pursuant to the provisions of this chapter regulating nonconforming uses generally.
- B. Such proposed amendments, supplements, changes or modifications, whether initiated by the Village Board or by petition, shall be referred to the Planning Board for review and recommendation.
- C. When a petition has been filed and permitted to be processed within ten (10) days prior to the scheduled public hearing and is thereafter withdrawn or is withdrawn or denied after the hearing, a petition seeking substantially the same relief shall not be considered or voted on by the Village Board, except for a vote to table or to receive and file, within one (1) year from the date of such previous filing, unless the Planning Board shall first find that there have been substantial changes which would merit a hearing or rehearing, in which case the Planning Board shall, in its recommendation, set forth the grounds for its determination. This restriction shall

not apply where the Village Board has not finally determined the proceeding within sixty-two (62) days following the public hearing.

§ 210-66. Application for rezoning.

The following are required for an application for rezoning:

- A. The name, address and telephone number of the applicant and, if he or she is not the owner, his or her interest in the property.
- B. The name, address and telephone number of the owner(s) of the property proposed for rezoning.
- C. A legal description and existing street address of the total site proposed for rezoning.
- D. A land survey of the total site prepared by a licensed person.
- E. Identification of existing and proposed zoning.
- F. A statement of planning objectives to be achieved by the rezoning. This statement should include a description of the character of the proposed development, the rationale behind the assumptions and choices made by the applicant and a statement of how the development meets the objectives of the Comprehensive Plan.
- G. A general statement as to how open space is to be owned and maintained, if relevant.
- H. A development schedule indicating the approximate date when construction can be expected to begin and be completed and any stages thereof.
- I. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the proposed development.
- J. Quantitative data for the following: the total number and type of dwelling units indicating distribution by dwelling unit type.
- K. Calculation of the residential density and dwelling units per gross acre for the entire development.
- L. The total amount of open space.

- M. Proposed nonresidential floor area.
- N. A development plan, if required by the Planning Board, in order to assure that the proposed zoning is consistent with the Comprehensive Plan and the intent and objectives of this chapter.

§ 210-67. Development plan.

The following are required for a development plan:

- A. The existing site conditions, including property lines, contours, water sources, floodplains, type of soil and subsoil, unique natural features and tree cover.
- B. Proposed land use arrangement.
- C. The location of all existing and proposed structures and other improvements, including maximum heights, types of dwelling units and the location of nonresidential floor area.
- D. The location and size, in acres or square feet, of all use areas and areas to be conveyed, dedicated or reserved as common open spaces, public parks, recreational areas, school sites and similar public and semipublic areas.
- E. The existing and proposed circulation system of arterial, collector and local streets, including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way, including major points of ingress and egress to the development. Notations of proposed ownership, public or private, should be included where appropriate.
- F. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system.
- G. The existing utilities systems, including sanitary sewers, storm sewers, stormwater retention areas and waterlines.
- H. Information on lands owned by the applicant within five hundred (500) feet of the perimeter of the area proposed to be rezoned.
- I. Sketches or other representations of typical structures and improvements sufficient to relay the basic architectural intent of the proposed improvements.

- J. Any additional information as might be required by the Planning Board to evaluate the character and impact of the proposed rezoning.

§ 210-68. Planning Board review.

- A. Upon receipt of a petition for rezoning, the Village Clerk shall transmit it to the Village Board for distribution to officials and agencies as it may deem appropriate for their review, report and recommendation. Such officials and agencies shall each, within thirty (30) days from receiving the petition, furnish the Village Board with a report pertinent to their respective jurisdictions.
- B. The Planning Board shall review the petition and development plan and evaluate reports received from reviewing officials and agencies. Within sixty-two (62) days following receipt by the Village Board of the petition, the Planning Board shall furnish to the Village Board and applicant either its findings that the proposed rezoning complies with the Comprehensive Plan and the regulations, standards, intent and objectives of this chapter or a finding of any failure of such compliance and a recommendation that the rezoning be approved, disapproved or modified.
- C. If the petitioner does not request a public hearing as provided for by this chapter within six (6) months after the Planning Board makes its report, the petition shall be deemed withdrawn.

§ 210-69. Village Board proceedings.

- A. Public hearing.
- (1) Following completion of Planning Board review and upon written request by the petitioner, the Village Board shall set a date for a public hearing for the purpose of considering the application and cause notice to be given as required by law.
 - (2) The Village Board shall hold the public hearing and render a decision within sixty-two (62) days thereafter.

B. Village Board action.

- (1) If the Village Board approves the amendment, supplement, change or modification to district boundaries or classifications thereof, the Zoning Map²³ shall be amended after publication as required by law.
- (2) The Village Board may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its resolution approving an application additional conditions or requirements consistent with the intent and objectives of the Comprehensive Plan and this chapter. The notice of the adoption of the resolution shall not be published, nor shall the Zoning Map²⁴ be amended until the applicant has filed with the Village Clerk written consent to those conditions.

²³ Editor's Note: The Official Zoning Map is on file in the village offices.

²⁴ Editor's Note: The Official Zoning Map is on file in the village offices.

ARTICLE X
Planning Board

§ 210-70. Creation and organization; vacancies. [Amended 6-23-2011 by L.L. No. 1-2011]

- A. The Planning Board. The Planning Board shall consist of seven (7) members appointed by the Village Board upon the recommendation of the Mayor. The members of the Planning Board as now constituted shall continue in office until the expiration of their present terms. Thereafter, their successors shall be appointed for terms of seven (7) years each. Vacancies shall be filled as provided for in the Village Law.
- B. Planning Board Clerk. The Village Clerk or his/her designee shall be the Planning Board Clerk and shall perform such duties as required by it. The Village Board may appoint additional clerks or other employees serving at its pleasure to assist the Planning Board.
- C. Planning Board Secretary. The Planning Board Secretary shall keep minutes of all proceedings before the Planning Board.
- D. Training requirements. All Planning Board members must complete minimum of twelve (12) hours of in-service training every three (3) years. In-service training hours in excess of twelve (12) hours in every three years can be rolled over into subsequent years to satisfy the requirement for those subsequent years. All in-service training must be relevant to the functions of the Planning Board, as determined by the Village of Alden Board of Trustees. All in-service training must receive prior approval by the Village of Alden Board of Trustees to be eligible for credit and any applicable reimbursement.
- E. Removal of members. The Mayor shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for absence at three (3) or more scheduled meetings of the Planning Board in any calendar year.

§ 210-71. Powers and duties.

- A. The Board shall have all the powers and perform all of the duties established by statute and this chapter.

- (1) The Board shall adopt rules for the conduct of its business consistent with statute and this chapter.
- (2) The Board shall, upon a favorable vote of a majority of its members, designate an Acting Chairperson to act as Chairperson in the absence of the appointed Chairperson.
- (3) The Chairperson of the Board or, in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by the Village Law and the Civil Practice Law and Rules.